

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. 150

THE ASSOCIATED PRESS, PETITIONER,

vs.

EDWIN A. WALKER.

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DEFENDANT'S EXHIBIT 6

This Court having on September 25, 1962 issued orders requiring Ross R. Barnett to appear before this Court today at 10:00 a.m., to show cause, if any he has, why he should not be held in civil contempt of the temporary restraining orders entered in this action on September 25, 1962, and Ross R. Barnett having been given notice of the orders to show cause, and it having been regularly called on the calendar for hearing at 10:00 a.m., this day, and Ross R. Barnett having failed to appear or respond in person or by counsel, and having failed to deny the factual statements contained in the verified application of the United States, and of the appellant and

The Court having heard and received evidence on behalf of the United States and of the appellant, and having deliberated and considered the legal issues involved, now renders its Findings of Fact and Conclusions of Law and Judgment as follows:

FINDINGS OF FACT

1. Since this Court entered into its order of July 28, 1962, and the District Court for the Southern District [fol. 74] Mississippi entered its order on September 13, 1962, requiring the admission of James H. Meredith to the University of Mississippi, Ross R. Barnett, as Governor of the State of Mississippi, has issued a series of proclamations calling upon all officials of the state to prevent and obstruct the carrying out of the Court's orders with respect to the admission of James H. Meredith to the University. Two of these proclamations were issued by Ross R. Barnett on September 24 and September 25, 1962.

2. On September 25, 1962, this Court entered its temporary restraining orders restraining Ross R. Barnett from interfering with or obstructing in any manner or by any means the enjoyment of rights or the performance of obligations under this Court's order of July 28, 1962 and the order of the District Court of September 13, 1962.

3. At approximately 4:30 p.m., on September 25, 1962, Ross R. Barnett, having full knowledge of the existence and terms of this Court's temporary restraining orders, went to the office of the Board of Trustees of Institutions of Higher Learning in Jackson, Mississippi at a time when James H. Meredith was due to appear at the office and be enrolled as a student in the University of Mississippi, pursuant to the order of this Court. When James H. Meredith arrived at the office and sought to enter for the purpose of enrolling, Ross R. Barnett deliberately prevented him from [fol. 775] entering and told him that his application for enrollment was denied by Ross R. Barnett.

4. On September 26, 1962, James H. Meredith sought to enter the campus of the University of Mississippi, in Oxford, Mississippi. He was prevented from entering by Paul B. Johnson, Jr., Lieutenant Governor of the State of Mississippi, acting pursuant to the instructions and under the authorization of Ross R. Barnett.

5. The conduct of Ross R. Barnett in preventing James H. Meredith from enrolling as a student in the University of Mississippi has been with the deliberate and announced purpose of preventing compliance with the orders of this and other federal courts.

CONCLUSIONS OF LAW

1. This Court has jurisdiction of the person of Ross R. Barnett.

2. Ross R. Barnett is in contempt of the temporary restraining orders entered by this Court on September 25, 1962.

JUDGMENT OF CIVIL CONTEMPT

Upon the foregoing findings of fact and conclusions of law:

IT IS ORDERED, ADJUDGED AND DECREED THAT:

Ross R. Barnett is in civil contempt of the temporary restraining orders of this Court entered September 25, [fol. 776] 1962; that such contempt is continuing; and that Ross R. Barnett shall be committed to and remain in the custody of the Attorney General of the United States and shall pay a fine to the United States of \$10,000. per day unless on or before Tuesday, October 2nd, 1962, at 11:00 a.m. he shows to this Court that he is fully complying with the terms of the restraining orders, and that he has notified all law enforcement officers and all other officers under his jurisdiction or command:

(a) To cease forthwith all resistance to and interference with the orders of this Court and the District Court for the Southern District of Mississippi;

(b) To maintain law and order at and around the University and to cooperate with the officers and agents of this Court and of the United States in the execution of the orders of this Court and of the District Court for the Southern District of Mississippi to the end that James H. Meredith be permitted to register and remain as a student at the University of Mississippi under the same conditions as apply to all other students.

Nothing herein shall prevent a later assertion of a charge of criminal contempt against Respondent.

Jurisdiction is hereby reserved for such other and further orders as may be appropriate.

Judges Jones, Gewin and Bell dissent from that portion [fol. 777] of the judgment imposing a fine upon the Respondent.

[fol. 778] Filed in the Court of Appeals on September 28, 1962.

By Mr. Gooch:

Q. Now, General Walker, prior to your going to Jackson, Mississippi, prior to September 30, 1962,—and to back up a moment, what was the date that you actually went to Jackson, Mississippi, from Dallas?

A. September 29th.

Q. 29th. Prior to September 29th had you held press conferences at any place or places in which you expressed yourself concerning the Oxford, Mississippi, incident?

A. I had held press conferences the previous week with respect to the sovereignty as a state and objections to Military forces being used in the state.

Q. All right. I am not sure that you mentioned this in your deposition or in answer to questions on direct examination, but did you issue a report or a news release to be carried on Party Line over station KWKH, Shreveport, Louisiana? On Wednesday, September 26, 1962, at about 7:30 p. m.

A. I think that is the date. It is in the deposition.

Q. That is right.

A. I can verify it, and my attorney.

Q. I will hand you what has been marked as Defendant's [fol. 779] Exhibit 2 to your deposition at the time it was taken. Has a notation, "Station KWKH, Shreveport, Louisiana, Party Line, Wednesday, September 26, 1962, at about 7:30 p. m., by Ted Walker."

Mr. Watts: No objection.

By Mr. Gooch:

Q. Now, do you identify, or can you identify—I better mark this as Defendant's Exhibit 7. Excuse me, General.

A. All right.

Q. Defendant's Exhibit 7.

(The instrument above-referred to was marked Defendant's Exhibit 7.)

Q. I hand you what has been marked as Defendant's Exhibit 7 and ask you if you will identify that as the news release that you gave over the Shreveport station on September 26, 1962?

A. That is identified.

Mr. Gooch: I will read Exhibit 7.

The Court: Are you offering it, Counsel?

Mr. Gooch: I am offering it.

The Court: It is admitted.

Mr. Gooch: Excuse me, I am sorry.

DEFENDANT'S EXHIBIT 7

"It is time to move. We have talked, listened and been pushed around far too much by the anti-Christ Supreme Court. Rise to a stand beside Governor Ross Barnett at [fol. 780] Jackson, Mississippi. Now is the time to be heard. Ten thousand strong from every state in the Union. Rally to the cause of freedom. The battle cry of the Republic. Barnett, yes, Castro, no. Bring your flags, your tents and your skillets. It is time. Now or never. The time is when and if the President of the United States commits or uses any troops, Federal or State, in Mississippi. The last time in such a situation I was on the wrong side. That was in Little Rock, Arkansas, in 1957, and 1958. This time I am out of uniform and I am on the right side and I will be there."

Now, General, is that the speech you delivered from that radio station at that time?

A. It certainly is.

By Mr. Gooch:

Q. Now, at that time, that being September 26, 1962—so, apparently, from that statement, particularly the last four words, you had made up your mind then to go to Mississippi, had you not?

A. Yes, sir, I had if and when troops were used.

Q. Well, now, let's pause right there. There were no troops used until after the Marshals had been attacked on the campus of the University of Mississippi on the night of September 30; is that correct?

A. The troops had been committed.

[fol. 781] Q. Now, do you know of the commitment of those troops, General?

A. Yes, I do.

Q. Do you have any troop commitment on that?

A. Yes, sir. I think you will find press reports in the newspapers of the 29th that said the President was committing troops. I believe there was much discussion about it, on the commitment of troops for a week.

Q. I believe it was September 30, to be exact. I am trying to ask you if you knew about the commitment of troops at that time? No, that wasn't what I asked you.

A. Well, I didn't say that. That there was a commitment of troops. I said that I was told if and when troops were going to be used—I didn't know they were going to use them, the troops now.

Q. The question was my error entirely. You did commit yourself to go, but you say it was a conditional commission, to go only if and when troops were used?

A. Additional commission—that was the only commission. I was only going if and when troops were used.

Q. You knew at the time you went on the campus that night that there were no troops on the campus, didn't you?

A. I had no way of knowing it.

[fol. 782] Q. After you got to the campus you knew the troops were not there, didn't you?

A. I didn't see any at the time I got on the campus.

Q. Did you make any inquiry to see whether or not there were any troops there or not, General?

A. I listened to the conversations with respect to whether there were any troops on the campus, and asked questions about whether or not troops were on the campus. Yes, I did query about it, whether they had seen any troops on the campus.

Q. What was the answer to the query?

A. I didn't find anybody that had seen any.

Q. As a matter of fact, the troops didn't come in until after the Marshals had become beleaguered, isn't that correct?

A. Mr. Gooch, I cannot answer that question unless you have some definite proof that there was no soldiers on the campus. In my opinion, there is bound to have been some soldiers on the campus. I was at Little Rock and I know what happened. And I know you can't just tell troops, go somewhere, and have them there for yourself.

Q. Well, in your deposition, I can't get the page and number now, but I can if necessary, you stated you were still on the campus that night after you had made the [fol. 783] speech, when you observed an Army convoy of troops coming onto the campus?

A. Yes, sir, I saw a convoy come on the campus.

Q. Had you seen or heard of any troops being on the campus prior to the time you observed them coming on there?

A. No, I hadn't but I had heard of them fifteen miles from Oxford, and they were setting up bases all across Tennessee. In Memphis it was already in the press that it had been discussed for days. It told about troops all in Tennessee, and they had told about—before I went on the campus they had—there was word before I even left Jackson that a Military installation was being set up fifteen miles north of Oxford. Perfectly obvious nobody was moving fifteen miles north of Jackson if they were not coming on the campus. They were already being used in Mississippi at that point.

Q. I wish you would get your copy, if you can find it, of any commitment orders on the use of those troops.

A. That is not necessary. When the troops are used there is an order. Corporals don't go off by themselves, sir. Somebody is directing them to.

Q. Now, did you issue a news report on or about September 27 from your residence in Dallas in which you

[fol. 784] appeared before a TV cameraman and made a statement of similar import to the one that you had made over Party Line the previous evening, and in connection with that TV interview answer a question or two before the TV cameras were shut off?

A. May I have it, sir?

Q. Let me see if I can find it. I don't have it, you didn't furnish it. I have what purports to be one which I will let you see. This is my copy. It is what I have been told is the speech you made. I don't know whether you made it or not.

A. I thought everything went in the deposition. Is there a copy of this?

Q. You didn't furnish that, General.

A. Oh. I recognize it as portions of this statement I made some time, and I think the first part of it has been furnished in the deposition. The others are questions and answers by the reporter, but I don't think I have any particular record of it.

Q. Well, would you say that you did or did not make the answers to those questions asked, the questions asked and the answers given? Or would you need the refreshment of your memory?

A. Well, this has got dots in it and dashes and so forth. This is the way the press does you. They may fill it in [fol. 785] or they haven't filled it in, or you have taken it out of context. "This is the cause of freedom,"^d and then they have got a bunch of dots in here. What does that say? "This is for America."

Q. It is supposed to be a quote from you. I don't know. A pause, I suppose.

A. I can't verify this as my exact statement or wording or a quote from me.

Mr. Gooch: If the Court please—

A. I think that the initial statement that I made covers the point and I am perfectly willing to release that to you.

Mr. Gooch: Well, in order to ask the question in connection with the interview which I have determined from my investigation occurred on September 27, 1962, the voice asked you in front of the TV camera, "General, if the forces go..."

Mr. Address: Judge—just a moment. He has already testified he can't identify this, can't remember it. Such being the case, we don't think it is proper to repeat it.

The Court: Sustained.

Mr. Gooch: If the Court please, at this time we would like to bring in the TV camera and the operator to show [fol. 786] the film for the refreshment of his memory.

The Court: Ladies and Gentlemen, it will take a little time.

The Witness: May I say this, Your Honor?

The Court: Yes, sir.

The Witness: It may save a lot of trouble. It doesn't make much difference.

Mr. Gooch: No, I think we will just go to the trouble.

Mr. Watts: Go ahead, let's do it.

The Court: Will it take a few minutes to set it up?

Mr. Watts: I might suggest we might return to that later, Your Honor, we may draw a ring around this until the recess. We can set it up at the recess.

Mr. Gooch: We would like to do it now.

The Court: I don't want to try to control his method of offering his proof.

Mr. Watts: I don't want to either.

The Witness: May I solve this very simply, Your Honor?

Mr. Watts: No, he wants to show the news release any way.

The Court: Move into the Jury room, and we will call you when the camera is set up.

[fol. 787] (During the recess, a projector and screen were set up in the courtroom, the jury returned to the courtroom, said film was run and following is a transcript of the sound portion of said film.)

General Walker: We have talked, listened and been pushed around far too much by the anti-Christ Supreme Court.

"The battle-cry of the Republic, Barnett, yes, Castro, no."

Bring your flag, your tent and your skillet. It's now or never. The time is when and if the President of the United States commits or uses any troops, Federal or State, in Mississippi. The time is when they decide, if they do, to use troops in the State of Mississippi against the State Sovereignty and the Governor of the State.

The last time in such a situation, I was on the wrong side. That was in Little Rock, Arkansas, in 1957, and '8. This time, out of uniform, I am on the right side. And I will be there.

Unidentified Voice: General, if forces go, will you lead this force?

General Walker: This is a cause for freedom. This is Americans', patriotic Americans' from all over the nation. It is a movement for Freedom. And I will be there. [fol. 788] Rise to a stand beside Governor Ross Barnett at Jackson, Mississippi. Now is the time to be heard. Thousands strong from every state in the union. Rally to the cause of freedom.

The Court: Turn on the lights, please.

Do you have any more at this time, Mr. Gooch?

Mr. Gooch: Yes, sir, I do.

I would like now to have this marked for identification as Defendant's Exhibit 8.

By Mr. Gooch:

Q. I hand you what's been marked as Defendant's Exhibit 8, which purports to be an address, or a press release, from Mississippi, Saturday, September 29th, at about 5:00 p.m.

It states on here, "From Jackson, from the residence of Dr. Ney Williams."

This was furnished as Defendant's Exhibit 4, to your deposition and I will ask you if this is the release that you gave at the Sun & Sands Motel in Jackson.

A. This is on the 29th?

Q. Yes, sir.

A. Yes, sir.

Q. Now in connection with that news release and the text, were you asked any questions while you were in front of the TV camera?

[fol. 789] A. I don't recall definitely. I have—I may have been, one or two. But I cut it very short because we were sort of—the camera, the press man I thought was taking advantage of me and I walked out in the next hallway to get out from under the cameras and grouped around another group of press people and discussed further, other questions with them.

Mr. Gooch: We offer in evidence at this time Defendant's Exhibit 8.

The Court: It's admitted.

DEFENDANT'S EXHIBIT 8

Mr. Gooch: Statement from General Walker from the Sun & Sands Motel at Jackson, Mississippi, September 29, 1962.

"I am in Mississippi—beside Governor Ross Barnett.

"I call for a national protest against the conspiracy from within.

"Rally to the cause of Freedom in righteous indignation, violent vocal protest and bitter silence under the Flag of Mississippi at the use of Federal troops.

"This today is a disgrace to the Nation in 'Dire Peril'—a disgrace beyond the capacity of anyone except its enemies. This is the conspiracy of the crucifixion by the anti-Christ conspirators of the Supreme Court in their denial of prayer and their betrayal of a nation."

[fol. 790] Now will you run the tape, please, sir.

The Court: Put the lights out.

(A tape was run and following is a transcript of the sound portion of said tape.)

Unidentified Voice: You are the speaker, sir. Would you like to read your statement?

General Walker: This is Edwin A. Walker. I am in Mississippi, beside Governor Ross Barnett.

I call for a national protest against the conspiracy from within.

Rally to the cause of Freedom, in righteous indignation, violent vocal protest and bitter silence under the flag of Mississippi at the use of Federal troops.

This today is a disgrace to the nation in dire peril—a disgrace beyond the capacity of anyone except its enemies. This is the conspiracy of the crucifixion by the anti-Christ conspirators of the Supreme Court in their denial of prayer and their betrayal of a nation.

Unidentified Voice: Sir, have you been in contact with Governor Barnett?

General Walker: I have been in contact with his office.

Unidentified Voice: Do you hope to see him while you [fol. 791] are here in Jackson?

General Walker: I certainly do. Thank you very much. And I am very happy to have been with you.

Unidentified Voice: Sir, can you tell us what your plans are, specifically?

(No response.)

Will you tell us what your plans are specifically, sir?

(No response.)

(Remainder of voice inaudible.)

• • •

Mr. Watts: Do you have another one to show?

Mr. Cravens: We have another one to show but not right at this minute.

Mr. Gooch: We would like at this time to introduce in evidence the films that have just been shown to the jury.

Mr. Watts: No objection.

Mr. Address: No objection.

The Court: They are both admitted. Are they both on one reel?

Mr. Cravens: No.

The Court: Separate reels?

All right, we will mark them 9 and 10.

Mr. Gooch: The one from Dallas will be 9 and the one [fol. 792] from Jackson will be 10.

(Thereupon, Defendant's Exhibits 9 and 10, were marked for identification.)

By Mr. Gooch:

Q. Now, General Walker, did you make a third appearance before a press conference, a fourth, rather, after you arrived at Oxford?

I believe you stated that you made one along about 4:45 or 5:00 o'clock, on the afternoon of September 30, 1962?

A. Yes, sir.

Q. Do you have a copy of that script?

A. I believe it's in the deposition, both attorneys have it.

Q. Well, I have one here that was marked Defendant's Exhibit 6, to your deposition and we never were for sure whether or not this is the one you used or one that you called back to Dallas.

I believe you testified that you did use that script at Oxford, I'm not sure.

[fol. 793] A. I believe we testified in the deposition, and as far as I remember this is the script that was used on the 29th, in the afternoon at 5:00 o'clock, as you stated, yes, sir.

Q. At Oxford?

A. At Oxford, and I think it was also called back to Dallas.

Q. Will you please—

Mr. Watts: Is that the 29th? Let's see.

The Witness: That is dated—

Mr. Watts: Couldn't have been in Oxford—

The Witness: No, no, wait a minute. Friday, September 30th.

Mr. Watts: That's right. We have no objection to it. I just wanted to get the date and everything straight.

Mr. Gooch: That is not my writing, that is somebody else's writing.

Mr. Watts: I just wanted to keep it straight.

A. Called back from Oxford. This reminds me, this was called back from Oxford, as marked on here, about 9:00 o'clock in the morning.

Mr. Watts: What date?

The Witness: Friday.

Mr. Watts: What date?

[fol. 794] The Witness: September 30th. Called back to my office in Dallas.

Mr. Gooch: Mark that as Defendant's Exhibit 11.

The Court: Are you offering it?

Mr. Gooch: Yes, sir.

The Court: It is admitted.

(Document marked Defendant's Exhibit 11 by the Court Reporter.)

By Mr. Gooch:

Q. General Walker, I hand you what has been identified as Defendant's Exhibit 11, and do you identify the words used on Defendant's Exhibit 11 as the statement that you made to the press in the courtyard of the Ole Miss Hotel along late in the afternoon of September 30, 1962?

A. Unless you can remind me of something better, well, this is the best of my memory.

Q. I have nothing to remind you with except I understood you to say in your deposition that was what you said.

A. I said in my deposition I think this is it. I know these are my words and this was released to the press.

Q. At the top of the page, "On to Mississippi." "As the forces of the New Frontier assemble to the north, let history be witness to the courage and determination that calls [fol. 795] us to Oxford to support a courageous Governor. His lawful stand for state sovereignty is supported by thousands of people beyond the state borders, now on their way to join you at Oxford."

Now, General, I believe the chronology indicates that your first of these releases in which you spoke of "... your flag, your tent and your skillet," was released from Shreveport on September 26, 1962?

A. Yes, sir.

Q. Was that a live broadcast or had you previously sent the word into the station, was it telephonic or just how did you get it over there?

A. I don't remember. I telephoned the statement in. It probably went on the air right at the time I telephoned in.

Q. Did you get any response from that broadcast?

A. I am sure there were telephone calls with regard to that broadcast.

Q. Going a step further, I—to the next night in Dallas, when you uttered a statement of similar import relative to flags, tents and skillets, and using the terminology, "Bring your flag, your tent and your skillet," and calling for ten thousand from each state, did you get any response at your home in Dallas?

A. Yes, I did.

[fol. 796] Q. I believe you testified in your deposition, did you not, that the 'phone calls were backed up six or eight deep and for hours, in response to your pleas?

A. That is a general statement. That is correct.

Q. All right. Did that indicate to you that your plea and statement had been heard for considerable length and breadth of the land?

A. I don't know where these were released, sir.

Q. Checking back with your deposition, we can find the pages, I believe you stated you got calls from California,

Ohio and Florida as a result of these press releases, did you?

A. I had calls from different parts of the country, yes, sir.

Q. Indicating they had heard the broadcast?

A. They had in many areas of the country.

Q. And offering their services, is that correct?

A. Discussing whether they were coming or weren't coming.

Q. General Walker, you furnished us to the deposition a tape which has been identified as Exhibit 5 to the deposition. We asked the Court Reporter, Mr. Frank Nuss, to play the tape over and write out on paper what the tape says. Now, we have that tape and we will submit the transcript to your counsel and to you. If you think that [fol. 797] is accurate we will read that into the record rather than play the tape, but at your pleasure.

[fol. 798] Mr. Watts: Could we identify this as to time and place?

Mr. Gooch: It was his Exhibit 5.

Mr. Watts: Where was it supposed to have come from?

(Sotto voce discussion of counsel.)

Mr. Gooch: We asked him on his deposition if he had any other statements.

Mr. Watts: This purports to be a telephone interview?

Mr. Gooch: It is a tape record. I assume it is an interview on a radio station. He said it was.

Mr. Watts: I think we can probably agree on that. Can I confer with him on that just a minute?

Mr. Gooch: Sure.

Mr. Watts: And save a lot of time here.

(Sotto voce discussion of Plaintiff and Plaintiff's Counsel.)

Mr. Watts: No objections.

Mr. Gooch: I believe, according to this caption on this other copy I have, it says radio interview, WNOE, Friday, September 28, 1962, General Edwin Walker.

The Witness: Sir, I believe that tape came from WNOE. That was what it was. And when it was taken in the [fol. 799] deposition,—this was taken by the reporter!

By Mr. Gooch:

Q. No, General, to be accurate we asked you on the deposition if you had any more and you later sent this one in.

A. Right, and we stated on the deposition this was given at a certain time, and later when I went home and listened to it I told in the report it was given at an earlier time, I believe it was, or vice versa, I don't know which. But, this tape came—the only thing I know about WNOE, which is down in New Orleans—the only thing I know about WNOE, it has got “radio interview, WNOE.” The only thing I know about that is that I found this tape with somebody on that station, and they mailed it to me and it was put into the record at the time of the deposition.

Q. All right. And, that is the September 28th interview that you had with Station WNOE, is that correct?

A. Not necessarily, sir. I don't know that. That tape could have been gotten anywhere by any reporter being anywhere, or taking it off a news release. You can tape to-night off your own radio. I don't know how they got it, but it came to me from WNOE.

Mr. Watts: To simplify the thing, we will be prepared to admit this statement was given to him on some radio station on the 28th. Won't that do it?

[fol. 800] Mr. Gooch: That is all I am trying to prove.

Mr. Watts: Save a lot of time.

Mr. Gooch: That will do it.

The Court: What is that number, Mr. Gooch?

Mr. Gooch: That will be Defendant's Exhibit 12.

The Court: Defendant's Exhibit 12, and you are offering it?

Mr. Gooch: Yes, sir.

The Court: It is admitted.

(Transcript of tape marked Defendant's Exhibit 12 and read as follows, by Mr. Gooch:)

DEFENDANT'S EXHIBIT 12

"Interviewer: General Walker, do you still intend to follow through with your plans to go to Mississippi after the Government warning today, supposedly that you will be held in contempt?"

"General Walker: I plan to go to Mississippi as I had intended if and when Federal troops are used in Mississippi. I do not feel that there is any constitutional law that prevents a citizen moving from state to state or place to place as he sees fit, and there are hundreds of causes moving to Mississippi, or that are reflecting their attitudes in Mississippi, and I am only a small part of this movement, and I intend to be there if and when the decision is made to use Federal troops there."

[fol. 801] "Interviewer: Well, do you personally, sir, believe that that order will be given by Attorney General Robert Kennedy?"

"General Walker: I would hope that they certainly do not use Federal troops as it was a catastrophe when they did it before in 1957 and '58 in Little Rock. It was unconstitutional then, as several Governors had pointed out, and also many members of the Bar, and they should read the Constitution more carefully and they would recognize this is unconstitutional. There is no law that requires integration."

"Interviewer: Well, now, sir, what do you think the repercussions would be if these Federal troops are sent to Oxford and, as a matter of fact, the State of Mississippi?"

"General Walker: I am not sure. It depends on what their mission is and what they are supposed to do and how they carry out their mission, and what the intents are after they get to Mississippi. I would say it certainly is obvious now that the cause of State rights extends far beyond Mississippi, and practically every state of the Union is recognizing the importance of the sovereignty of the

state, and that is very much involved, greatly involved, in [fol. 802] this issue.

"Interviewer: Sir, what has been the general reaction to your plans of going to Mississippi with groups of citizens? I am sure you have heard from quite a few people throughout the United States.

"General Walker: We are just utterly swamped here with telephone calls and offers of help and assistance and notifications that people are moving to Mississippi and that they want to assist in every way possible; that they are opposed to what the administration is doing in opposing the Governor in Mississippi. I can assure you that the telephones shall never stop ringing. Calls are backed up six and eight deep. People are telling me it's taking four or five hours to even get into a telephone system, and we have seven 'phones in the house. Messages are coming in offering support in groups of ten to twenty to even two thousand.

"Interviewer: Well, sir, do you find these telegrams and well wishes from people throughout the United States are predominantly southern, or are they also coming from the north and the west and from the east?

"General Walker: They are from all parts of the country. Many have come in from Ohio, just a few minutes ago [fol. 803] from St. Paul, quite a few from New York, Florida; of course, Los Angeles and many of the states in between. I have just gotten off the line to Seattle, Washington.

"Interviewer: Do you have plans, sir, for rallies, if and when the Federal troops are entered into Mississippi, of a certain point in the state where all your followers will then meet with you to protest the integration if it does come about?

"General Walker: I intend to join the movement. There are thousands of people, I am sure, already in Mississippi—probably hundreds of thousands there—that are already standing beside their Governor Barnett. The best place to do this would, of course, be at the capitol or at Oxford,

at the University, since that is where the issue is involved, and I am sure that that is where most of the movement will move to, to show the grass roots of movement in this issue.

"Interviewer: One final question, sir. Just what were your thoughts when acting as an officer of the United States Army when you were commanded to enter Little Rock? What were your thoughts in 1957, seeing these same type of citizens in another state, so opposedly or reportedly opposedly [fol. 804] posing Federal seizure, or Federal acts, against a sovereign state, supposedly?"

"General Walker: At that time I knew it was unconstitutional and felt that it was at that time, in using troops, and it should never have been done. My principles have not changed, but now, out of the uniform I'm on the other side, and this time on the right side, and that is in opposition to unconstitutional actions by the Federal Government, and I'm very happy to be free from the requirements of the Military Service in those cases where the Military Service has been unconstitutionally used against the citizens of the United States. It would appear to me with all the problems in the international situation, and with an enemy, and a very critical enemy ninety miles off our coast, it would be as utterly fantastic, as well as impossible, that the administration should now be in a cause and a purpose which is as to the disunity of the United States of America, when the important thing is today that all Americans be unified against the one and only important enemy in the world today, the one who has established that he intends to bury us—and by the President's own statement, this country is in dire peril."

[fol. 805]

By Mr. Gooch:

Q. Now, General, just what was your purpose in going to Mississippi?

A. I thought it was absolutely wrong to use Military forces, troops, American troops in a strictly civilian problem.

Q. All right.

Mr. Watts: Let him finish.

A. And I wanted to see for myself exactly what happened. I wanted to know from first hand information. And I did not trust the press reporting of it in any form, since I had been at Little Rock and seen that exaggerated out of all proportions, and I intended to see for myself.

By Mr. Gooch:

Q. You intended to see for yourself the use of Federal troops?

A. That is exactly right.

Q. And that is all you went for?

A. If and when Federal troops were committed, which I stated were used in Mississippi.

Q. Well, after you got to Oxford and prior to the time of your entry onto the campus on September 30, 1962, no Federal troops had been sent to the campus, had they?

A. They had been—as far as I know, I don't know whether they were on the campus or not.

Q. All right.

[fol. 806] A. They were in Mississippi and they were in Tennessee in large numbers.

Q. All right. Let's back up just a minute, sir. In all of these statements you refer repeatedly to Governor Barnett and his stand, do you not?

A. I have referred—not in all those statements. I have referred to the State of Mississippi and the sovereignty of the State of Mississippi in many of those statements, with regard to the sovereignty of the state and Governor Ross Barnett.

Q. All right. This statement comes to hand first. That is the one you read in Mississippi?

A. Why don't you use that one, Mr. Gooch.

Q. Because this is the one I want to use, General Walker.

[fol. 807] Mr. Gooch: Because this is the one I want to use, General Walker.

The Witness: I'm sorry.

The Court: Just a minute now.

Mr. Watts: That's not—

The Court: Go ahead, Mr. Gooch.

By Mr. Gooch:

Q. This is the one that you used in Oxford, Mississippi, shortly before your advent to the campus: "As the forces of the new frontier assemble to the north."

I presume you were talking about the Kennedy's in that context, were you?

Mr. Watts: If Your Honor please, I object to that. That's argumentative and—

The Court: He can say no or he can say yes.

Mr. Watts: Well, okay.

A. "The new frontier," refers to the Administration, the national policy, the international policy and the administration of government, Federal Government.

Q. Well, I understood that President John F. Kennedy was the one that coined the expressed, "new frontier," and I was just trying to get your views on it.

A. Well, those aren't my views, sir.

Q. All right, sir. "Let history be witness to the courage and determination that calls us to Oxford to support a [fol. 808] courageous Governor."

Now in that interview at least you were talking about Governor Ross Barnett, were you not?

A. In that interview, is as you have read it, sir. May I have the date?

Q. September 30, 1962.

A. That's in Oxford?

Q. In Oxford.

A. Right, sir.

Q. My question again, if you will answer it, does that refer to Governor Ross Barnett?

A. It did.

Q. You knew at that time that Governor Ross Barnett had been enjoined from taking any further action against the entry of Meredith to the University, did you not?

A. I am not a lawyer. I was thoroughly dependent, completely dependent on the legal advice of Governor Ross Barnett and the great lawyers he had there.

He had his Attorney General, he had the ex-president of the Bar Association, Judge Satterfield—

Mr. Gooch: Wait a minute.

Mr. Watts: Let him finish.

The Witness: Was—I was dependent entirely—

The Court: I don't believe it is responsive. Just a minute now. What was the question again, Mr. Gooch?

[fol. 809] Mr. Watts: Let him rephrase it.

Mr. Gooch: Am I prohibited from breaking in when the witness is not responding to my question?

The Court: No, sir, you are not. You are not. Go ahead.

Mr. Watts: I would suggest, if Your Honor, please, it's my understanding, address the Court, but I would object to him breaking into the witness. Now, in other words—

The Court: He had to break into the witness to stop him, Counsel.

Mr. Watts: Well, all right, sir.

The Court: Rephrase your question or re-ask it, Mr. Gooch, please.

Mr. Gooch: Frank, can you tell me what it was?

The Reporter: "You knew at that time Governor Ross Barnett had been enjoined from taking any further action against the entry of Meredith to the University, did you not?"

Mr. Watts: If Your Honor please, I suggest it is responsive, in that he says that he was depending on the Governor's counsel.

The Court: Responsive would be whether he knows or whether he didn't know.

Mr. Watts: Yes, sir. Yes, sir.

[fol. 810] The Court: Did you or didn't you know, General, that's what he wants to know?

The Witness: In general, I knew what the papers were saying, that the Governor had, through the legal procedure at this position in the legal process, he had been enjoined, as you stated.

By Mr. Gooch:

Q. You, also, knew at that time that he was acting in open defiance of that court injunction, did you not?

A. No, I did not. He was acting under legal authority with due process. He had many times said and enjoined (sic) the entire State of Mississippi to join hands and—with him in legal opposition under the Constitution.

This is the position that we are in now. He had asked all the people, including the officials of the State and everybody else, to join hands together with each other and with the Governor in opposing in every possible means the—with all legal authority, under the Constitution, in opposing the administration's, Federal Administration's action against the State then and what might transpire.

Q. The question I originally asked you, General, was as to whether or not you had knowledge at the time you went to Mississippi that Governor Ross Barnett was acting contra to the injunction which had been issued out of the Circuit Court of Appeals for the Fifth Circuit at New Orleans?

[fol. 811] A. Now just to be simple—to get me straight, you have "defiance," you have got, "contra," you have got, "opposition". I am just a layman. I am no lawyer.

As far as I'm concerned, through legal procedures and processes, he is opposing the legal processes from the other side with his own staff, which I depended upon.

Q. Then you made an election, I assume, that you would follow Governor Barnett rather than the edicts of the Federal Courts?

A. I was supporting completely Governor Barnett's position which represented a million people in Mississippi and he, as Governor, was the sovereign state. Barnett was the sovereign—was the State of Mississippi, with a million people, and perfectly capable, law capabilities, as far as I'm concerned.

Q. General Walker, do you believe that one man or a group of men is above the law of the land?

A. Nobody—

Mr. Address: We don't think that's a proper question now, Judge.

The Court: Overruled.

Mr. Watts: Go ahead and answer it.

The Court: You may answer, sir.

The Witness: Will you repeat the question?

By Mr. Gooch:

Q. Do you believe that one man, a group of men, or a [fol. 812] million men, by their actions, whether in concert or singularly, is above the law of the land?

A. I certainly believe nobody is above the law, no single individual is the law of the land, above the law of the land, and if anybody had been charged as I was, for such, he probably would have been convicted, if they had found sufficient evidence, which I don't believe the Government did.

Q. Well, I don't know what you are talking about here. I asked you about being above the law of the land. Now I don't follow your answer.

A. Your question was whether I believed that anyone—any one individual should be above the law of the land. Mr. Gooch, I certainly do not.

Q. All right. That was the question I asked you. I was just trying to get your answer.

A. And I believe it's been proved by the fact—so you will understand what I am talking about, that it's been very definitely proved. Otherwise, the Government charges against me wouldn't have been dropped.

Q. Well, now General Walker, when we get into that question, I don't know why you are skipping over to that one, the Grand Jury in Oxford, as I read the transcript, did not fail to indict you. They merely didn't pass on the matter, is that correct?

[fol. 813] Mr. Watts: If Your Honor please, I object to that. First, it's not the best evidence. They did fail to indict him. The charges were dismissed by the Federal Government against this man and that is not the best evidence.

And it's certainly argumentative, to argue a hypothetical action of a Mississippi Grand Jury. They are official proceedings and could be available.

The Court: Sustained.

Mr. Gooch: If the Court please, I don't want to belabor the point but when I get these—

Mr. Address: Judge—

The Court: Wait a minute. Mr. Gooch is talking. One at a time.

Mr. Address: We ought to argue this outside the presence of the jury.

The Court: Mr. Gooch.

Mr. Gooch: The question was—the answer was completely unresponsive to my—the answer was completely unresponsive to my question but since he brings in a matter like that, I certainly believe that I have the right to interrogate him about the facts of the matter.

Mr. Watts: I have no objection to him being interrogated. The only thing I object to is asking this witness—

[fol. 814] The Court: I understood your objection, Counsel, and I sustained it.

Mr. Watts: Oh, excuse me, sir. I'm just running a little ... I'm sorry, Judge. I didn't intend to—

The Court: Gentlemen, at this point, let's take a recess. Recess until a quarter of 4:00.

Now the audience remain in your seats until after the jury has left the jury room, please.

(15-minute recess.)

[fol. 815] Q. General Walker, just prior to the afternoon recess we were discussing the question of the constitution and the orders of the Court and the actions of Governor Barnett in connection with constitutional authority. Would that be a fair statement of what we were talking about when the recess was called?

A. In general, in the use of Military troops.

Q. All right. Now, let's go back to your 1957 and 1958, when you were in command of the troops at Little Rock, when you were called upon with your troops, I assume, and correct me if I am wrong, to see that the edicts of the Court there with respect to integration was carried out. Is that a fair statement? Were you called in with your troops at Little Rock to enforce the orders of the Federal Court on the integration of the Little Rock, Arkansas, school?

A. I wasn't called in there, I was already there, and had been there for about a month and I was under orders of Military command, sir.

Q. And you observed those orders?

A. I was given my orders, yes, sir.

Q. Did those orders come from the Pentagon, from President Eisenhower, or where did they come from?

A. They came through the Military chain of command.

Q. You understood that they were the orders from the [fol. 816] commander in chief, General Eisenhower, did you not, or then President Eisenhower.

A. That is—yes, sir.

Q. Did you have any riots in Little Rock?

A. We had quite a protest at Little Rock, continuously, and no—no particular violence.

Q. Did you have any violence at all?

A. Sir?

Q. Did you have any violence at all?

A. One incident, an individual—

Q. All right. Go ahead.

A. One individual took a—jerked a rifle away from a soldier and took it completely away from him and a soldier beside him gave the individual a poke with his gun, and with the butt end of it, and got it back, and this man then had three or four stitches taken in his head, but he had taken the gun completely away from the soldier.

Q. That just about stopped any violence up there when that happened, didn't it?

A. (No answer given.)

Q. Is that the only incident that happened?

A. No, the way—well, the way it was handled helped stop violence.

Q. In connection with troops at Little Rock you told the troops the orders that you had to see that there was integration [fol. 817] at Little Rock, that those orders were going to be enforced, didn't you?

You gave your troops instructions?

A. I followed my Military directions and commands, yes, sir.

Q. And you were going to see to it that those edicts of the Court was carried out under your command?

A. I was only carrying out Military orders.

Q. Did you stand out in front of your troops there and give your orders, or did you send them by written communication, or word of mouth through subordinates?

A. Well, it was an entirely different situation there, sir. Little Rock—Oxford—Oxford is the first time in history that the troops have seized, searched and arrested without Martial Law. Now, we didn't have Martial Law at Little Rock either. But we didn't seize, search and arrest people.

Q. Did it become necessary?

A. No, sir. It was handled different.

Q. In connection with the Little Rock incident of which you have testified about, did you make an address to the student body of the Little Rock High School expressing

your views as to the lawful authority of the United States to—

A. No, sir.

[fol. 818] Q. Did you deliver an address?

A. Yes, sir.

Q. In that address did you discuss the question of the constitutional rights of the people?

A. The way that address was written, it came up in the deposition before—I gave the address that was given at Little Rock, and it discussed, as I remember it, the constitutional rights of the people.

Q. I hand you here a photostat, a photostat of portions of page 14 of the Arkansas Gazette, dated Thursday, September 26, 1957, which is headlined, "Text of General's speech to students." This is an AP story, I believe. Would you look at this and see if that is the address that you delivered to those students, or whether it is not?

A. I believe we can shorten this without reading the whole thing, sir. Is this the exact copy of what was placed in the deposition?

Q. It never was placed in the deposition. As I recall, it was not readable. You stated at that time you couldn't read it.

A. I said I couldn't identify what a newspaper did to an address. I can't take responsibility of accepting this address for the Government. The Government did keep the statement made at Little Rock by me, that you are referring [fol. 819] to as an address. We will even go further. It was made to the students, the students in the Little Rock High School, that had legal advise and legal—

The Court: Pardon me just a minute.

The Witness: That was developed by my chain of command.

The Court: Pardon me. The question was: "Is that the statement that you made?" Is that the speech that you made. That is the question.

A. I have nothing to remind me to say this is the statement I made, Your Honor.

Mr. Watts: Let me see it, Your Honor.

The Witness: And I won't accept a newspaper statement of it.

By Mr. Gooch:

Q. Just a minute.

Mr. Watts: Oh, might I?

Mr. Gooch: I believe the witness is still under cross examination.

Mr. Watts: I thought I might shorten it by just agreeing to it.

Mr. Gooch: I don't care whether he agrees to it or not, Mr. Watts.

Mr. Watts: I am sorry.

By Mr. Gooch:

Q. General, I hand you a certificate from the Pentagon and ask you to take a look at that. Look at the certificate, [fol. 820] and then look under the certificate to see if that is the speech, a certified copy of the speech you made to the students at the Little Rock High School on or about September 25th, 1957?

A. I believe we advised your counsel—the lawyers at the time to please get a copy. Is this the copy you got?

Q. That is the copy I got.

A. An exact copy of what was stated?

Q. If you compare that with the Associated Press—

A. This comes out of the office of the Secretary of Defense?

Q. Yes, sir.

A. Washington, D. C., signed by Shirley B. Meyer, Executive Assistant, offices of Administrative Services; has my counsel got a copy?

Q. Excuse me. Here is the Associated Press dispatch. I will introduce both of them.

Mr. Watts: Have you compared this with the original?

Mr. Gooch: I have and they are the same.

Mr. Watts: We will take counsel's statement that this is an exact statement, the one the witness was reading, and he can read either one of them. As I understand, he has compared them and they are the same. There is no use [fol. 821-2] killing all this time.

Mr. Gooch: Please mark the Arkansas Gazette article of September 26, 1957, I believe it is Defendant's Exhibit 13.

The Court: 13.

Mr. Gooch: 13-A, as I remember, in the deposition, there was something missing on that article, at the last line. May I see it? We couldn't read it when we were taking the deposition.

By Mr. Gooch:

Q. In the deposition we had a very bad photocopy.

A. I see. I can't read portions of this.

Mr. Watts: Is there a question to the witness?

By Mr. Gooch:

Q. Whether or not that was the address that he gave to the Little Rock High School students on September 26, 1957?

[fol. 823] A. As far as I can tell, this is the address that was made.

Mr. Gooch: Please mark that as Defendant's Exhibit 14.

(Defendant's Exhibit No. 14, was marked for identification.)

Mr. Gooch: We now offer it in evidence, if the Court please.

The Court: 14?

Mr. Gooch: Yes, sir.

The Court: It's admitted.

DEFENDANT'S EXHIBIT 14

Mr. Gooch: Pursuant to the provisions of the Department of Defense Directive Number 5015.1, dated July 31, 1952, I hereby certify that the annexed document is a true copy of a microfilmed message on file in the Department of Defense.

In witness whereof, I have hereunto set my hand and caused the seal of the Department of Defense to be affixed this 9th day of June, in the year of 1964, A.D., at Washington, District of Columbia, Shirley E. Meyer, Executive Assistant, Office of Administrative Services.

This is on the stationery of the Department of the Army:

"Staff Communications Division." Caption. Speech by Major General Edwin A. Walker to students of Little Rock [fol. 824] Central High School, 0900 hrs. 25 Sep., '57.

"Young ladies and gentlemen of Central High School. Mr. Blossom, your superintendent of schools, has asked me to come to your school this morning and discuss with you the situation in Little Rock and what it means to you students. I welcome this opportunity to do so.

"As you know, the Fourteenth Amendment to the Constitution of the United States guarantees to all citizens the equal protection of the laws. Since the adoption of this amendment, many states have provided separate schools for their children on the basis of color. The laws establishing such schools have, however, been challenged in the courts, and about three years ago, the Supreme Court of the United States determined that such laws are contrary to the provisions of the Fourteenth Amendment and consequently invalid. This decision by the highest court in the land is, of course, an authoritative interpretation of our Constitution, is binding on all citizens and government officers, both state and Federal, and may not, under our law, be changed except by an amendment to the Constitution.

"Because of the Supreme Court's decision, it became necessary for those states maintaining separate schools to revise their systems to eliminate distinctions on the [fol. 825] basis of color. The nature of these plans was left to the states and local communities, subject to approval by the local Federal District Courts. The Little Rock School District prepared such a plan which was approved by both the District Court and Circuit Court of Appeals. This plan provides for a very gradual abandonment of the separate schools system starting this year.

"Subsequent to the approval of this plan, attempts were made in the courts to prevent the school authorities from putting it into effect.

"I need not go into the details of this litigation, sufficient to say it was unsuccessful, and that the plan as originally approved remains unchanged and in full force and effect.

"During the past few weeks, as you are well aware, the situation in Little Rock has been such as to prevent the entrance of a few students into your high school. Therefore, to see that the laws of the land be faithfully executed, the President has found it necessary to call the National Guard of Arkansas into the Federal Service and has directed that this force and each other armed forces as may be made available be used to enforce the orders of the Court, as an officer of the United States Army, I have [fol. 826] been chosen to command these forces and to execute the President's orders.

"What does all this mean to you students. You have often heard it said, no doubt, that the United States is a nation under law and not under men. This means that we are governed by laws, properly decided upon by duly constituted authority, and not by the decrees of one man or one class of men. Since this is true, it means that we are all subject to all the laws whether we approve of them personally or not and as law-abiding citizens have an obligation in conscience to obey them. There can be no exceptions, if it were otherwise, we would not be a strong nation but a mere unruly mob.

"I believe that you are well-intentioned, law-abiding citizens, who understand the necessity of obeying the laws and are determined to do so. You have nothing to fear from my soldiers, and no one will interfere with your coming, going or your peaceful pursuit of your studies. However, I would be less than honest if I failed to tell you that I intend to use all means necessary to prevent any interference with the execution of your school board's plan. This is what I have been ordered to do, and I intend to carry out my orders. Those who interfere or disrupt the proper administration of the school will be removed by the soldiers on duty and turned over to the local [fol. 827] police for disposition in accordance with the laws of your community.

"One last word about my soldiers. They are here because they have been ordered to be here. They are seasoned, well-trained soldiers, many of them combat veterans. Being soldiers they are as determined as I to carry out their orders. However, as I stated before, the law-abiding people have nothing to fear from them. They have been carefully instructed not to molest any law-abiding citizen in his person or property, and they will obey these orders. Since a peaceful atmosphere must be maintained in the school and its vicinity, it may be necessary for them to issue instructions concerning such things, as loitering, assembling in large groups, and otherwise making it difficult for them to perform their duties. I earnestly ask that you cooperate, for your own benefit and ours.

"I wish you all success in your school year and Mr. Matthews, I thank you for the opportunity to talk to the student body."

By Mr. Gooch:

Q. General Walker, just prior to the time you went to Mississippi on September 29, 1962, do you recall having a news conference with a reporter in Dallas, by the name of Phenas E. Mothershed? Do you know Phenas E. Mothershed?

A. No, sir, not that I recollect. I don't know him.
[fol. 828] Q. I will ask you if in a telephone interview this question was asked you: Just a second until I find it.
"Do you recommend that the volunteers go armed?" He's talking about your impending trip to Mississippi.

Do you recall that statement, that question being asked you?

A. By a reporter?

Q. Yes, sir.

A. No, sir, I have no recollection of it.

Q. Would you say it was not asked you?

A. May have been. I don't know whether he identified himself or not.

Q. And your answer to that question, which I am asking you if you made, "The Administration has indicated that it will do whatever is necessary to enforce this unconstitutional action. I have stated that whatever is necessary to oppose that enforcement and stand behind Governor Barnett should be done."

Did you make that statement, General Walker?

A. I can't verify that exact statement. I probably did.

Q. All right. The next question, the reporter asked you whether or not you meant to imply that you advocated physical force. Do you remember a question such as that being asked you?

[fol. 829] A. Yes, many times. I walked off when such questions were asked.

Q. To which you replied, according to this release, "The decision for force will be made in Washington. Evidently it has not been made yet. When and if it is, it's their decision to make. We will move with the punches."

Did you make that answer, General?

A. I may have. Can you identify the reporter? Is that the same reporter?

Q. I'm just asking you if you made the statement?

A. I may have.

Q. All right. Now, General, when did you have a communication by telephone with Louis Leman before you went to Mississippi on the 29th of September, 1962?

A. Yes, I did.

Q. Do you remember the date of that communication?

A. A telephone call?

Q. Yes, sir.

A. It would have been on the 28th, as I remember.

Q. Did you know at the time he made the call to you that he was in Mississippi?

A. No, sir, I didn't.

Q. You had already planned, according to these news releases, to go to Mississippi, had you not?

A. Yes, sir, I had planned to go to Mississippi. I believe there were two or three telephone calls have been referred to with respect to Louis Leman.

Q. In one of those phone calls, we'll say on the 28th, were you told by him that there was a growing situation at the Ole Miss campus, an explosive situation?

A. Not that I recall. We discussed the situation, at Mississippi, and he referred to some of the students' attitudes and also, with respect to the State and, also, at Oxford, and some of the attitudes on the campus.

Q. Did he tell you that a majority of the students, according to his opinion, were backing Barnett but the student newspaper was anti-Barnett; do you recall him making that statement?

A. He may have.

Q. Do you recall him telling you that all that they needed was leadership?

A. No, I don't remember that.

Q. All right. Would you say that he didn't tell you that?

A. No, I wouldn't say he didn't.

Q. Now did you tell him in that first conversation that you were coming?

A. As I recall the first conversation, I didn't know whether I was coming or not and later I said I was—I talked to him again and said that I would probably be in [fol. 831] Oxford the next day—I mean in Jackson the next day.

Q. Now as early as the 26th, you stated you would be there, didn't you?

A. If troops were used.

Q. All right. Now, you went to Mississippi, as I recall your testimony, on the 29th of September, 1962?

A. Yes, sir.

Q. And I believe you have testified that you went by private plane, isn't that correct?

A. Yes, sir.

Q. And I believe that you stated that you had had some previous conversation with Dr. Ney Williams?

A. Yes, sir.

Q. And I presume that Dr. Williams met you at the plane, is that correct?

A. Yes, sir.

Q. Were there any newspaper reporters at the plane?

A. Not that I recall.

Q. You went on to Dr. Ney Williams' house, I assume, after your lunch, as you have testified to?

A. After we had lunch, we went on to Dr. Ney's.

Q. And how did you get ahold of the press? Did you call the press and tell them you were there?

A. Dr. Ney Williams called the press about a call he got into the house about that they were moving Marshals on [fol. 832] the campus, on Saturday afternoon, the 29th.

And there was a call came into his house that Marshals were being moved on the campus and he called, as I remember, he called the press and asked them about it. He had a very close friend in the press.

Q. Well, I'm asking, the question I asked you was, how did the press know you were there?

A. That's the way they would have known.

Q. Did Dr. Williams tell them, the press, that you were there?

A. He probably did.

Q. And then did the press call back and ask for a conference?

A. As I remember, that's the way it worked.

Q. Then you did ask for that press conference or the press asked you, which was it?

A. I don't remember. When you are talking about "the press," if it was a press man and he called and he wanted a conference or asked if he could see me, as I understand our conversation, that would be a request by the press for a conference.

Q. That's right.

A. Right, sir.

Q. And you did hold the conference there at the Sun & Sands Motel, the text of which has already been introduced [fol. 833] in evidence, is that correct?

A. Yes, about 6:00 p.m.

Q. Then you went from the Dr. Ney—you went back to Dr. Ney Williams' house, as I understand your testimony, and from Dr. Williams' house you and Louis Leman then started for Oxford?

A. After the—

Q. I believe you did get a cup of coffee before you started there.

A. Yes, sir.

Q. And you got into Oxford about midnight?

A. Yes, sir.

Q. And you went on the campus that night. What was the purpose of going on the campus at midnight?

A. We just decided to drive through it as we went on up and see it.

Q. It was about 1:00 or 1:30 in the morning?

A. No, sir, I think it was about 12:00.

Q. Between 11:00 and 12:00. Then you went on to the hotel. Now at the hotel, you have testified that you were registered in under an assumed name by Mr. Leman in order to keep the press from getting ahold of you?

A. Yes.

Q. Well, now for the last four or five days prior to that time you had been quite vocal in the press, hadn't you, [fol. 834] General?

A. Yes, sir.

Q. The 26th, the 27th, the 28th, 29th, you had—you had called press conferences for the one on the 26th and the 27th, hadn't you?

A. Well, either they called me or I called them.

Q. Well, now, did the Shreveport station call you to get this party line statement or did you call them?

A. No, I called them.

Q. Then you wanted to be sure that statement got out as close to Mississippi as possible, didn't you?

A. Which statement, sir?

Q. The one from Shreveport. The Shreveport station reaches over into Mississippi, doesn't it, General Walker?

A. Mostly Louisiana and Texas, yes, sir. The answer to your question is yes, sir.

Q. All right, you called to Shreveport to get a release on a Shreveport station?

A. Right, sir.

Q. Then the next day you called a conference in Dallas, Texas, in front of the TV cameras is that right?

A. I don't know who called it. Maybe I did.

Q. Well, you were anxious to get your message out to those who cared to listen, were you not?

A. Very glad to get it out.

[fol. 835] Q. All right. That was your appeal, to bring your, "Your flag, your tent and your skillet," is that right?

A. On Wednesday the 26th of September, yes, sir.

Q. And Thursday, the 27th, you reiterated your flag, tent and skillet, did you not, or did you?

A. I don't think so but I may have.

Q. Well, let's take a look at that. I think we can find out.

Mr. Address: If the Court please, they are in evidence. We think this is repetition.

The Court: Overruled.

Mr. Address: We have read them and heard them.

The Court: Overruled.

Mr. Gooch: That's the one we played over the . . . No,

I am not. On the transcript of the movie we played, the first paragraph, I think you will find a reference to, "Bring your flag, your tent and your skillet"?

A. Yes, it leaves off the first part, evidently.

By Mr. Gooch:

Q. I am talking about the flag, tent and skillet part.

A. Yes, it's in there.

Q. All right.

A. Was that—may I ask a question about that, sir?

Q. Yes, sir.

[fol. 836] A. Was that in the—

Q. In the movie just showed?

A. Oh, I see. Right.

Q. This is a transcription of the movie that was shown, General?

A. Right, sir.

Q. Now was that expression, "Bring your flag, your tent and your skillet," was that an original phrase or statement from you or had you borrowed that from somebody else?

A. As far as I'm concerned, it's original. Somebody else may have said it. Practically everything's been said before.

Q. Now did you mean by that that the people were to come on to Mississippi, when you said, "Bring your flag, your tent and your skillet,"—

A. When I—with reference to coming to Mississippi, it refers to bringing your flag, tent and skillet, that you will need somewhere to stay and you will probably have to feed yourself, even the people—

Q. And a flag with which to rally under, is that correct?

A. You don't necessarily have to rally under a flag. You can carry one.

Q. It's a pretty good idea to rally under a flag, though, [fol. 837] isn't it, General?

Mr. Watts: I object to that, if Your Honor please, as argumentative.

The Court: It could be. Sustained.

[fol. 838] A. That is immaterial, whether you have a flag or not, to rally.

Mr. Watts: Well, the objection has been sustained Mr. Witness.

Mr. Gooch: Well, we have got two Courts now that is determining it.

Mr. Watts: He doesn't hear very well, Tiny.

By Mr. Gooch:

Q. Now, take the one from Oxford, General Walker. That was subsequent to your flag, your tent and your skillet coming to Mississippi, wasn't it?

A. Yes, sir, that was afterward, on the 30th.

Q. And in that Oxford statement that you issued, that meant come on to Oxford, didn't it?

A. Yes, sir.

Q. Then, those that had been importuned to bring their flags, their tents and skillets to Mississippi were then informed, to the extent that the news media would reach them, to change their course from Jackson and elsewhere and converge on Oxford? Is that correct, General?

A. Yes, sir, they would probably need their skillets in Oxford, and Jackson too, sir.

Q. But they also—I suppose you meant for them to bring their flags, their tents and their skillets on to Oxford, is that correct?

A. To Mississippi and Oxford, or Jackson or wherever [fol. 839] they came from.

Q. The last one is what I am talking about, and that is the one in which they are directed or invited to come to Oxford, as I read it? I may be in error.

A. Yes, sir, but where the skillet was mentioned, it didn't mention Oxford did it?

Q. Oh?

A. It mentions Mississippi.

Q. I know. I am talking about, though, the appeal you made for them to come to Oxford. I assume that you meant

for them to bring their flags, their tents and their skillets and come on to Oxford, is that correct?

A. Yes, sir. I didn't tell them to take them home and come back.

Q. All right. Now, after you had registered in at the Mansell Motel, I believe you testified that the next morning you went down to see Sheriff Ford?

A. Yes, sir.

Q. And you informed Sheriff Ford where you were and where you could be reached if anyone wanted you, I assume, did you?

A. Yes, sir.

Q. And you informed Sheriff Ford that you would like to be of any assistance to him that you could?

A. That I would be of any assistance to him, I could.

[fol. 840] Q. Well, suffice it to say, without quibbling over words, you offered your services to Sheriff Ford, did you?

A. Yes, sir.

Q. At that time, General Walker, you knew that the Sheriff's Department, including Sheriff Ford, the Highway Department under Col. Birdsong, or the State Highway Police, rather, under Col. Birdsong, were all under the jurisdiction as far as orders were concerned from Gov. Ross Barnett, did you not?

A. Yes, sir, they would have been.

Q. You knew at that time that Gov. Ross Barnett had used the Mississippi State Highway Patrol, together with the Sheriffs, Deputy Sheriffs and Constables from the various counties in Mississippi for the purpose of keeping Meredith from entering the University of Mississippi on his attempt on September 20, 1962, did you not?

A. September 20?

Q. 25th.

A. May I ask the question: Is it the 20th or the 25th? You said 20th.

Q. Two different times. One was the 20th and one on the 25th.

A. I don't recall any on the 20th but—

Q. Well, I asked about the 25th, to be specific.

[fol. 841] A. I don't know in what legal manner he used his forces to stop the entrance of Meredith.

Q. I am not talking about legal matters. Aside from the legality of the situation, do you know whether or not Gov. Barnett used the police forces of the State of Mississippi, consisting of the Highway Patrol, the Sheriffs, the Deputy Sheriffs, to prevent the entrance of Meredith on the campus, from entering the University of Mississippi on or about September 25, 1962?

Did you know that?

A. Yes, he did.

Q. All right. You also knew from having been in the State of Mississippi on September 30, 1962, that Gov. Ross Barnett had not changed his position and had not released or relinquished his opposition to Meredith entering the University of Mississippi, did you not?

A. As far as I know he hadn't.

Q. Then when you went to Sheriff Ford on Sunday, September 30, and offered your services you were also offering your services to Gov. Barnett, were you not?

A. Sheriff Ford is a law enforcement agency, sir, law enforcement, required to keep down violence.

Q. Back to my question—

A. And I went to Sheriff Ford and offered my assistance with the idea that I would assist him in keeping down any [fol. 842] violence.

Q. Did you make it known that that was what you were there for, or did you say, "Anyway I can serve you?"

A. I said I could serve him. I would serve him.

Q. That was what—

A. If he needed me. I gave him the address of my—where I was staying.

Q. Did you say that you would do anything you could to keep down violence?

A. I was—I forget how I stated it, but I told him that I was not there for violence and that I would assist him in any way that I could.

Q. You just implied that you would assist him in keeping down violence, is that right?

A. That's right, that was the implication.

Q. Did you attempt to assist the Rev. Duncan Gray in attempting to keep down violence after you got on the campus, General Walker?

A. I assisted in keeping violence down on the campus.

Rev. Duncan Gray—when you get instructions in mob activities, you don't—and I have had plenty of instructions and study in the activities of mobs and how to suppress them. This is a military requirement. This is in our training program, and you don't assist people—you lose effectiveness if you assist people that the crowd is against, and opposing. And definitely Duncan Gray was in a—he, himself, was in a personal position where he was subject to violence.

Now, the violence, the overall major violence was the violence that might occur, or did to some extent occur in the opposition of one group against another. But not Duncan Gray. He was just immaterial to it.

Q. Back to my question, did you assist or refuse to assist the Rev. Duncan Gray when he sought your help in stopping the violence that you observed on the campus of the University of Mississippi on the night of September 30, 1962?

A. I assisted Duncan Gray by not using him.

Q. All right. He advised you, did he not, that the students would listen to him—listen to you, and implored you to use your influence, did he not?

A. He made those statements, or something similar to them, but he was a frenzied little minister.

Q. And you told the Rev. Duncan Gray that you didn't come there to stop anything? And wouldn't stop it if you could, didn't you?

A. I recall no such statement.

Q. Would you say you didn't make that statement?

A. I wouldn't make—I wouldn't say I didn't to Duncan [fol. 844] Gray. Didn't make any difference what I said to Duncan Gray. He was frenzied and useless.

Q. You told all those around him, including Duncan Gray, that since he was an Episcopalian it made you ashamed to be an Episcopalian. Did you make that statement?

A. I did.

Q. Now, in your statement on the monument—I am drifting a bit ahead, but just to get your viewpoint on it, General,—you stated you assisted Duncan Gray by not helping him—I believe that was the import of your statement?

A. May not have assisted him directly, but it was an assistance to the United States Government.

Q. Were you trying to help the United States Government that night, General Walker?

A. As far as keeping violence out of what was going on, I was.

Q. What kind of a reaction does it have to a mob of people when you tell them somebody sold them out? You think those are soothing terms, General?

A. Yes, sir, that—when they are claiming that the Governor has sold them out. That is one step lower, and that is a soothing term. I am sure Birdwell (sic)—immediately the way the rumor started that was inflaming them that they were being sold out—now, you must get the picture, Mr. [fol. 845] Gooch. It was like this.

I wasn't even going to speak to them for a long time, as I have stated. I didn't expect to speak. Until they begin to rise up in this enthusiastic determination over the statement, and get excited over Barnett selling them out.

Now, the reason for this, which hasn't all become clear, it becomes perfectly obvious that the students saw the Highway Patrol leaving the campus, and they felt that the Highway Patrol were their friends and were on—even though the Highway Patrol were standing physically and pushing them back, but they felt when the Highway Patrol went, fourteen or eighteen cars, whatever it was that I saw drive off the campus, they immediately thought the Governor had sold them out and the Highway Patrol had gone

off and left them, and they were getting all riled up and more—more purposeful, and determined—so that is why the rumor that Barnett—that is the origination of the rumor of why Barnett had sold them out. Because here is the Highway Patrol on the campus was leaving the students, and about this time was when the students began to come toward the monument. It wasn't all because I got there. It wasn't because I was there, but the Highway Patrol were leaving just ten minutes before that. And they came to see why they were leaving. They even talked to [fol. 846] some of the Highway Patrolmen. I didn't hear them. In the cars. As they started off the campus, and the Highway Patrol went right on by the monument. I asked a student, "Who is leaving the campus, who are those people in automobiles?" And one of them said to me, "That is the Highway Patrol," so I walked over to the curb about twenty steps from the monument on the left, coming out on the south side, and I looked right down in the automobiles to verify that the Highway Patrol was leaving. I didn't understand why the Highway Patrol would have been leaving at that time, and it became very obvious to the students when these people left, that Barnett had sold them out. And this was getting them quite excited.

Q. I don't want to interrupt you if you have more to say.

A. Will you re-read his question?

Q. No, that has been—

The Court: We will go on to his next question.

Q. Been about ten minutes ago. I don't even know what I asked you now.

General Walker, I may be repeating a little bit, because I am trying to get back to the continuity, but you did see Sheriff Ford down there on the morning of September 30 and tendered him your services, is that correct?

A. Yes, sir.

[fol. 847] Q. Then, I believe after that incident you stated that some newspaper reporters found out you were

in town. Do you know how they found out you were in town?

A. No, sir, I don't.

Q. Could have been by virtue of the fact you had told them you were going to Oxford the night before, couldn't it, General?

A. It may have been, but it wouldn't be necessary. They would find out where I was.

Q. They sort of have a way of seeking you out if they want to find you, don't they, General?

A. They sure do.

Q. At any rate, you were contacted by some newspaper men, and I believe you said—I may be in error—along about 9:00 o'clock—no, I am in error. You testified you went up to the Courthouse about 9:00 o'clock or to breakfast about 9:00 o'clock.

A. Sunday morning?

Q. Yes. What was throwing me on that, I notice on that statement you made from Oxford you have got a 9:00 o'clock date on it, but apparently that means you called that into Oxford before you had your press conference—I mean called that in to Dallas before you had your press conference; is that correct?

A. As far as I remember that was the reason for that. [fol. 848] It was called back to Dallas, usually at the same time, yes, sir.

Q. All right, General. After you had already talked to Sheriff Ford, had your breakfast and gone to talk to Sheriff Ford, did you return back to the motel?

A. Yes, sir, as I remember we went back to the motel.

Q. And then I believe you went in to lunch, was that about the next sequence of events?

A. Yes, sir.

Q. And I believe you stated at the luncheon table, or in the cafe you ran into some reporters there?

A. Yes, sir.

Q. And that is the time you told them that you would hold a press conference at the Ole Miss Hotel?

A. Yes, sir, they were quite demanding in their requirement for a press conference.

[fol. 849] Q. I believe you further stated that you knew that that was where the reporters were staying?

A. Yes, sir.

Q. How did you know that, General?

A. Conversation in the cafeteria—in the cafe.

Q. So how did you spend your afternoon, General, from the time of your lunch, which I assume was around midday, until your press conference that afternoon?

A. Back at the motel, probably getting a nap and making telephone calls to certain people back to my house to find out about my car that had been taken that night, and to work up a press statement for the press. It takes me usually an hour or hour and a half to work up a statement for the press.

Q. General, you had worked that statement up by 9:00 o'clock, that morning?

A. I may have, yes, sir. That is the usual occurrence. I usually go over them and—

Q. Only about six lines. Take you an hour and a half to work up that conference?

A. Well, this part of it, in seeing that it was right for the situation as it was at that moment, and making telephone calls, and probably getting a nap.

Q. All right, did you listen to the radio to see what was going on in the news?

[fol. 850] A. Probably did. Probably read a paper.

Q. Didn't believe anything you heard or anything you read, did you?

A. The question is what, sir?

Q. We will go on to the next question.

About what time, General, did you have your dinner that night?

A. My lunch or dinner that night?

Q. Well, did I say lunch? I meant dinner. I thought you had lunch around midday, and I was talking about dinner, or supper, as we used to call it down in Ennis County.

A. Dinner—I had—I got into the cafe and—cafe in Oxford about 5 or 10 minutes until 8:00, I would say.

Q. And who were you with?

A. Louis Leman.

Q. Anybody else?

A. Nobody else.

Q. Now I believe you testified that you—someone came in with a radio, and you heard President Kennedy's speech, is that correct?

A. That is right, sir.

Q. Did you hear the proclamation issued by President Kennedy along about that time relative to the Oxford, Mississippi, incident?

A. I heard whatever he said, Mr. Gooch.

[fol. 851] Mr. Gooch: Please mark this as Defendant's Exhibit 15.

(Thereupon, Defendant's Exhibit No. 15, was marked for identification.)

Mr. Gooch: For identification, Plaintiff's Exhibit 15 is Proclamation No. 3497, Obstructions of justice in the State of Mississippi.

Mr. Watts: As a matter of information, was that read over the radio as a part of his speech?

Mr. Gooch: It's my information that it was.

Mr. Watts: I have no objection to it, if it was.

Mr. Cravens: Or referred to. It may not have been read. It may have been referred to.

Mr. Watts: Well, I would object to it unless it came to this witness' attention. I have no objection to you asking if it did come to his attention but I object to it going in evidence unless—

The Court: He hasn't offered it yet, Counsel. Save your objections until the offer.

Mr. Watts: Oh, yes, sir.

Mr. Gooch: If the Court please, I tender to the witness Defendant's Exhibit 15, and ask you to take a look at that

instrument and see if the language or the import of that instrument is such as to have been remembered by you as uttered by President Kennedy on the evening or after-
[fol. 852] noon or evening of September 30, 1962?

A. May I confer with my Counsel?

The Court: Yes, sir; you may.

The Witness: Is this supposed to be the Kennedy speech?

Mr. Watts: No, this is an official proclamation issued by the President.

Mr. Gooch: It was issued over radio and TV.

Mr. Watts: I think we can depend on Mr. Gooch's statement. As a matter of simple information, was this included in the President's speech?

Mr. Gooch: It was alluded to in the President's speech and part of it quoted from.

Mr. Watts: Do you understand, part of it was apparently quoted in the President's speech and we have no objection to the proclamation, as such. What part was quoted, I do not know?

Mr. Gooch: We offer in evidence Defendant's Exhibit 15, being Proclamation No. 3497, obstructions of justice in the State of Mississippi.

Mr. Watts: We have no objection to the Proclamation.

The Court: It's admitted.

DEFENDANT'S EXHIBIT 15

Mr. Gooch: By the President of the United States of America.

[fol. 853] A PROCLAMATION.

WHEREAS the Governor of the State of Mississippi and certain law enforcement officers and other officials of that State, and other persons, individually and in unlawful assemblies, combinations and conspiracies, have been and are willfully opposing and obstructing the enforcement of orders entered by the United States District Court for the

Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit; and

WHEREAS such unlawful assemblies, combinations and conspiracies oppose and obstruct the execution of the laws of the United States, impede the course of justice under the laws and make it impracticable to enforce those laws in the State of Mississippi by the ordinary course of judicial proceedings; and

WHEREAS I have expressly called the attention of the Governor of Mississippi to the perilous situation that exists and to his duties in the premises, and have requested but have not received from him adequate assurances that the orders of the courts of the United States will be obeyed and that law and order will be maintained:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States, under and by virtue of the authority vested [fol. 854] in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code, particularly sections 332, 333 and 334 thereof, do command all persons engaged in such obstructions of justice to cease and desist therefrom and to disperse and retire peaceably forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 30th day of September in the year of our Lord nineteen hundred and sixty-two, and of the Independence of the United States of America the one hundred and eighty-seventh.

Signed by John F. Kennedy.

We offer that, if we have not. I believe we did already offer it in evidence.

The Court: You did offer it. It's been admitted.

Mr. Gooch: I would like now to mark for identification as Defendant's Exhibit 16, and instrument entitled, "Execu-

tive Order 11053," which was also referred to and quoted from in the Kennedy speech, duly certified by the—whoever puts the red ribbons on.

Mr. Watts: No objection.

(Defendant's Exhibit 16, was marked for identification.)

[fol. 855] Mr. Gooch: We now offer in evidence Executive Order 11053.

The Court: Defendant's Exhibit 16, and it's admitted.

Mr. Gooch: Providing the assistance for the removal of unlawful obstructions of justice in the State of Mississippi.

DEFENDANT'S EXHIBIT 16

EXECUTIVE ORDER

WHEREAS on September 30, 1962, I issued Proclamation No. 3497 reading in part as follows:

"WHEREAS the Governor of the State of Mississippi and certain law enforcement officers and other officials of that State, and other persons, individually and in unlawful assemblies, combinations and conspiracies, have been and are willfully opposing and obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit; and

"WHEREAS such unlawful assemblies, combinations and conspiracies oppose and obstruct the execution of the laws of the United States, impede the course of justice under those laws and make it impracticable to enforce those laws in the State of Mississippi by the ordinary course of judicial proceedings; and

[fol. 856] "WHEREAS I have expressly called the attention of the Governor of Mississippi to the perilous situation that exists and to his duties in the premises, and have requested but have not received from him adequate assur-

ances that the orders of the courts of the United States will be obeyed and that law and order will be maintained.

"NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States, under and by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code, particularly sections 332, 333, and 334 thereof, do command all persons engaged in such obstructions of justice to cease and desist therefrom and to disperse and retire peaceably forthwith;" and

WHEREAS the commands contained in that proclamation have not been obeyed and obstruction of enforcement of those court orders still exists and threatens to continue:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10, particularly Sections 332, 333 and 334 thereof, and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

[fol. 857] Section 1. The Secretary of Defense is authorized and directed to take all appropriate steps to enforce all orders of the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit and to remove all obstructions of justice in the State of Mississippi.

Section 2. In furtherance of the enforcement of the aforementioned orders of the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit, the Secretary of Defense is authorized to use such of the armed forces of the United States as he may deem necessary.

Section 3. I hereby authorize the Secretary of Defense to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, any or all of the units of the Army National Guard and of the Air National Guard of the State of Mis-

Mississippi to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. In carrying out the provisions of Section 1, the Secretary of Defense is authorized to use the units, and members thereof, ordered into the active military service of the United States pursuant to this section.

Section 4. The Secretary of Defense is authorized to [fol. 858] delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this order.

THE WHITE HOUSE

September 30, 1962.

By Mr. Gooch:

Q. General Walker, is that the Proclamation that put the Federal forces into the Oxford Mississippi situation?

Mr. Watts: If Your Honor please, I object to that question because it's not within this witness' knowledge. He's asked him the legal effect of that Proclamation.

Mr. Address: That's an Executive Order.

Mr. Watts: That's an Executive Order. That's a matter for the Court.

The Court: In view of the past experience of the witness, I'll permit him to testify, if he knows.

Mr. Watts: All right, sir. Yes, his understanding of it, I would. . . .

The Witness: Will you read the question?

By Mr. Gooch:

Q. The question is, General, is that the instrument by which the use of Federal forces were being permitted or commanded to be used in connection with the Oxford incident?

A. I have never seen this. I have never seen one before. I do not know.

[fol. 859] Q. Well, I'm sure if you don't know, you don't know. But being a man who was learned in military law and the man who commanded Little Rock, I thought perhaps you would know that an instrument, Executive Order such as that, is required before troops are used in a matter such as the Oxford incident.

If you don't know, that's quite all right. The instrument is self-explanatory.

Do you still say you don't know whether that's the executive order that brought the militia into this matter?

A. I don't. I don't remember seeing one like that at Little Rock.

Q. All right. You have testified previously that troops, Federal troops, had been committed to the Oxford incident prior to September 30, 1962, have you not?

A. Yes, sir, from all the reports I—

Q. Never mind the reports. Do you know of any instrument other than the instrument of which I have handed you that committed Federal troops to be used in the Oxford, Mississippi, incident on September the 30th, 1962?

A. I know of no other instrument.

The Court: Do you have a pretty good stopping place, Mr. Gooch?

[fol. 860] Mr. Gooch: The next series is rather lengthy, Judge.

The Court: All right, then let's recess.

(Thereupon, at 4:50 o'clock, p.m., an adjournment was taken until the following morning at 9:00 o'clock, a.m., Friday, June 12, 1964.)

EDWIN A. WALKER, having been previously sworn, testified further as follows:

Cross examination (Continued).

By Mr. Gooch:

Q. General Walker, in yesterday's proceedings there was introduced an exhibit which portrayed a news release made by you in Jackson, Mississippi. I refer to Defendant's Exhibit 8, and the first sentence.

"I am in Mississippi beside Governor Ross Barnett." That was a part of that press release, was it not?

A. Yes, it was. Just a part of it.

Q. Now, were you actually or figuratively beside Governor Ross Barnett?

A. Figuratively.

Q. Did you see Governor Barnett after you got to Mississippi on the 29th?

A. No, I didn't.

Q. Did you have any conversation with him?

A. No, sir, I didn't.

Q. You let him know you were there?

A. I didn't personally, no, sir. I had no contact with him.

[fol. 864] Q. Then by that figurative statement that you were standing by him, I assume that you meant you were adhering to the principles that Governor Barnett had previously expressed?

A. I was supporting the principles that he had expressed.

Q. All right. You were, of course, aware at that time that he had prevented the entry of Meredith into the Ole Miss University?

A. He had opposed it, yes, sir.

Q. And he had prevented it, had he not, up to that time?

A. He hadn't been entered up to that time.

Q. All right. When did you first learn that Meredith was actually on the campus of the University? Was it

after you got to the campus, or did you ever learn he was there?

A. There was discussion of it all day Sunday afternoon, you might say, and I thought there was a remark made about him being on the campus at the press conference when I got there and they said I was scooped by Marshals having moved on the campus. I think there was a reference to Meredith being on the campus at the same time. But it—I would have definitely known about it when I got to the campus.

[fol. 865] Q. Is that the first time you definitely knew Meredith was on the campus, was when you got to the campus?

A. I considered him on the campus after the press conference, the discussion at the press conference.

Q. Had you been told prior to the press conference he was actually on the campus?

A. No, but this was all being told. You were told several times. Even in Jackson we heard he was coming on the press conference (sic). There was much discussion about it. But nothing that appeared definite to me, Mr. Gooch.

Q. You mentioned a conference at the Courthouse on Sunday afternoon with Sheriff Ford and a number of other Sheriffs?

A. Yes, sir.

Q. You also mentioned there was a Governor's representative there, I believe?

A. Yes, sir.

Q. Did the Governor's representative tell you at that time that Meredith was on the campus?

A. Yes, he did.

Q. Did you take that as authoritative?

A. Yes, sir.

Q. Then, let's get on now back to the dinner at the Mansion House Cafe, which we were getting close to yesterday afternoon.

[fol. 866] I believe you testified that you got into the cafe sometime shortly before 8:00 p. m. and that someone had a radio and you moved up to where you could listen to the speech of President Kennedy; is that correct?

A. Yes, sir.

Q. Did you listen rather carefully to the President's speech?

A. Yes, sir.

Q. Do you recall whether or not the President informed all of the listeners that Meredith was then on the campus?

A. I don't recall that he did, sir.

Q. Do you recall generally what the President—the text of the President's speech?

A. The text of the speech was to the effect that the administration intended to see that Meredith was entered into this University of Ole Miss, and it referred to the use of Military forces, as I remember. I believe we should have the text of the speech.

Mr. Gooch: Well, suppose we just have the President's speech played, for the sake of continuity.

Mr. Watts: If the Court please, I think this is going a little too far. Your Honor knows all the emotional impact connected with the President's speech. It doesn't prove or [fol. 867] disprove anything. I think we can read it.

The Court: It might be relevant.

Mr. Watts: I have no objection to the speech, but I say playing it—

The Court: We will play it, if they want to play it.

Mr. Watts: All right. If Your Honor please, I will object to the movies. This man did not see a movie.

The Court: What did you see?

The Witness: I heard it on the radio.

Mr. Watts: If you turn the movie part off, I have no objection to the sound. I think it would be better to read it, however.

The Court: I will permit the sound of exactly what the General heard.

Mr. Gooch: Well, can you turn off the picture and just have the sound?

The Technician: Yes, sir.

Mr. Gooch: All right. That is all right.

(Whereupon a sound recording purporting to be the speech of President Kennedy was played to the Jury as follows:

* * *

"News Commentator: We take you now to the White [fol. 868] House in Washington, D. C.

"Second Commentator: From the White House in Washington, NBC News brings you John F. Kennedy, President of the United States. As the President speaks to the Nation, Meredith has arrived on the University of Mississippi campus to be enrolled tomorrow. Governor Barnett asked that bloodshed shall be avoided. The President.

"President Kennedy: Good evening, my fellow citizens. The orders of the Court in the case of Meredith versus Fair are beginning to be carried out.

Mr. James Meredith is now in residence on the campus of the University of Mississippi. This has been accomplished thus far without the use of National Guard or other troops, and it is to be hoped that the law enforcement officers of the State of Mississippi and the Federal Marshals will continue to be sufficient in the future.

All students, members of the faculty and public officials in both Mississippi and the Nation will be able, it is hoped, to return to their normal activities with full confidence in the integrity of American law. This is as it should be. For our Nation is founded on the principle that observance of the law is the eternal safeguard of liberty. And defiance of [fol. 869] the law is the surest road to tyranny. The law, which we obey, includes the final rulings of the Court as well as the enactment of our legislative bodies.

Even among law abiding men few laws are universally loved, but they are universally respected, and not resisted. Americans are free, in short, to disagree with the law, but

not to disobey it. We are a government of laws and not of men. No man, however prominent or powerful, and no mob, however unruly or boisterous, is entitled to defy a court of law. If this country should ever reach the point where any man or group of men, by force or threat of force, could long deny the commands of our court and our Constitution then no law would stand free from doubt. No Judge would be sure of his writ. And no citizen would be safe from his neighbor. In this case in which the United States Government was not until recently involved, Mr. Meredith brought a private suit in Federal Court against those who were excluding him from the University.

A series of Federal Courts, all the way to the Supreme Court, repeatedly ordered Mr. Meredith's admission to the University. When those orders were defied and those who sought to implement them threatened with arrest and violence the United States Court of Appeals, consisting of [fol. 870] Chief Judge Tuttle of Georgia, Judge Hutchinson of Texas, Judge Reeves of Alabama, Judge Jones of Florida, Judge Brown of Texas, Judge Wisdom of Louisiana, Judge DeWitt of Alabama, and Judge Bell of Georgia, made clear the fact that the enforcement of its order had become an obligation of the United States Government. Even though this Government had not originally been a party to the case, my responsibility as President was therefore inescapable. I accept it. My obligation under the Constitution and the Statutes of the United States was and is to implement the orders of the Court with whatever means are necessary, and with as little force and civil disorder as the circumstances permit.

It was for this reason that I federalized the Mississippi National Guard as the most appropriate instrument should any be needed to preserve law and order when United States Marshals, carried out the order of the Court and prepared to back them up with whatever other civil or military enforcement might have been required.

[fol. 871] "I deeply regret the fact that any action by the Executive Branch was necessary in this case but all other

avenues and alternatives, including persuasion and conciliation had been tried and exhausted.

"Had the police powers of Mississippi been used to support the orders of the Court instead of deliberately and unlawfully blocking them, had the University of Mississippi fulfilled its standard of excellence by quietly admitting this applicant, in conformity with what so many other Southern State Universities have done for so many years, a peaceable and sensible solution would have been possible without any Federal intervention.

"This nation is proud of the many instances in which Governors, educators and everyday citizens from the South have shown to the world the gains that can be made by persuasion and good will in a society ruled by law.

"Specifically, I would like to take this occasion to express the thanks of this nation to those southerners who have contributed to the progress of our Democratic development in the entrance of students, regardless of race to such great institutions as the state-supported Universities of Virginia, North Carolina, Georgia, Florida, Texas, Louisiana, Tennessee, Arkansas and Kentucky.

[fol. 872] "I recognize that the present period of transition and adjustment in our nation's Southland is a hard one for many people. Neither Mississippi nor any other Southern State deserves to be charged with all the accumulated wrongs of the last hundred years of race relations.

"To the extent that there has been failure, the responsibility for that failure must be shared by all, by every state, by every citizen.

"Mississippi and her university moreover are noted for their courage, for their contribution of talent and thought to the affairs of this nation.

"This is the state of Lucius Lamar and many others who have placed the national good ahead of sectional interests. This is the state which had four Medal of Honor winners in the Korean War alone.

"In fact, the Guard Unit federalized this morning early is part of the 155th Infantry, one of the ten oldest regiments in the union and one of the most decorated for sacrifice and bravery in six wars.

"In 1945, a Mississippi sergeant, Jake Lindsley, was honored by an unusual joint session of the Congress.

"I close, therefore, with this appeal to the students of the University, the people who are most concerned:

[fol. 873] "You have a great tradition to uphold, a tradition of honor and courage, won on the field of battle and on the gridiron as well as the university campus.

"You have a new opportunity to show that you are men of patriotism and integrity. For the most effective means of upholding the law is not the state police or the Marshals or the National Guard—it is you. It lies in your courage to accept those laws with which you disagree as well as those with which you agree. The eyes of the nation and all the world are upon you and upon all of us and the honor of your university and state are in the balance.

"I am certain that the great majority of the students will uphold that honor. There is, in short, no reason why the books on this case cannot now be quickly and quietly closed in the manner directed by the Courts.

"Let us preserve both the law and the peace and then after healing those wounds that are within, we can turn to the greater crisis, that are without and stand united as one people in our pledge to man freedom.

"Thank you. Goodnight.")

By Mr. Gooch:

Q. Now General Walker, the President's speech has just been played and tabulated here in the record. Does that recall to your mind the things you heard there in the [fol. 874] Mansion House Cafe that night?

A. It recalls to my mind the President's speech, yes, sir. I heard it there that night.

Q. And you did notice in the President's speech that the nation was advised, as were all the listeners, that Meredith was then in residence on the campus?

A. Yes, I did.

Q. You considered that authority, did you not?

A. Yes, sir.

Q. All right. Then prior to the time that you got to the campus on the night of September the 30th, 1962, you knew without question that Meredith was then on the campus and that he had been taken on the campus that day, did you not?

A. Yes, sir, I am not denying that in any way, Mr. Gooch. I would say I knew—I was pretty suspicious of it and suspected from earlier than this speech, as I said after the press conference.

Q. All right. Now I believe you stated that after the President—well, now just at the conclusion of the President's speech, did you make any remark concerning the President's speech?

A. I may have.

Q. I'll ask you if you uttered these words:

"Nauseating, nauseating?"

[fol. 875] A. I may have.

Q. Well, that expresses your feeling I presume then for the President's speech?

A. It expressed my feelings with respect to the situation as it was being presented at that time from the Administration's point of view, Federal Administration's point of view.

Q. All right. Now after the President's speech, you said, after some delay there at the cafe—I believe you said with relationship to some cigarettes or something, or you maybe were stopped—you and Mr. Leman went to the campus.

You have detailed on the map, which I believe is Plaintiff's Exhibit 1—did that get a number applied?

Anyhow, the large map on the wall, on the easel.

The Court: Plaintiff's 11.

By Mr. Gooch:

Q. —Plaintiff's Exhibit 11, that prior to the time you got to the campus itself, that there is a railroad track underneath the University Avenue?

A. Yes.

Q. And the car in which you were in pulled in and parked at someplace east of the railroad track?

A. Yes, sir.

Q. And I believe you stated that you got out?

A. Yes, sir.

[fol. 876] Q. Before the car was parked?

A. Yes, sir.

Q. You started on towards the campus?

A. Yes.

Q. Mr. Leman was left behind?

A. Yes, sir.

Q. Now were there people scattered out along University Avenue, walking in the same direction you were?

A. No, sir, they was scattered out sort of facing the street, watching what was coming and going to the campus.

Q. Were there people between you and the campus as you left the railroad bridge and started towards the campus?

A. Yes, sir, in spotted groups along the route.

Q. About how far did you proceed before you saw or heard of Mr. Leman again?

A. Well, I crossed a big long bridge, which is just part of the road. You can hardly tell the tracks are underneath. And I crossed that. I would say I was about 60 yards.

Q. And then did you make any motion with your arm?

A. Yes, there were people—I had passed people on the, standing there, 30 or so.

And as Leman came out of the park and turned, why, I was up ahead and I wanted him to know where I was and I waved to him to come on up.

[fol. 877] Q. Did you call him by name or did you just wave your arm?

A. No, I didn't. It was too far. I just waved my arm and signaled so he could catch where I was.

Q. There was only one way to get on down to the campus, was that street, wasn't it?

A. Yes, sir, but I wanted him with me.

Q. All right. Now as you got closer to the entrance of the campus, did you observe any people there on University Avenue just at about the entrance of the campus?

A. There was no particular group up there. There were people on both sides of the street in little groups of three's and four's, as you might have come to the campus in a car or a group, and you get to the campus and then there is a group around the monument in an area of 60 feet, say, where the light would show on, that one street light was—that was there.

Q. All right.

A. And it would show the monument. It showed the monument.

Q. Now about the time you got to the edge of the campus but before you actually got on it were you hailed by a group of persons across the street?

A. I wasn't hailed. Some people spoke to me across the street, smiled at me, definitely recognized me.

[fol. 878] Q. What did you say to them?

A. Well, I had talked to three or four on the left side. Now I was right on the sidewalk. I never got off the sidewalk. On the south side of University Avenue, coming to the campus.

And I talked to three or four people on the side, on the left side, and then I turned around and, looked around. I looked at the policeman over in the center of the street to see if he was stopping anybody. He wasn't. And people were going by him on both sides on the—he was in the center of the street, just stopping cars.

And people were going up and down the sidewalks as they wanted. And I—

Q. Did you holler?

A. And I said to 'em, "Come on."

Q. Did you wave to them and say, "Come on?"

A. Across the street to a group that recognized me, about three or four people.

Q. All right. Now when you got on down to the campus, proper, I believe you said there was a street light south-east, I believe it would be, of the monument?

A. Southeast, yes, sir.

Q. And did you stop under that light?

A. Sir?

Q. Did you stop under that light?

[fol. 879] A. Yes, sir.

Q. Were you greeted by any of the students there?

A. Yes, three or four, six or eight, or eight or ten, in groups of three's and four's as they come up.

Q. What was said, General?

Mr. Gooch: Get the General a glass of water, will you, Mr. Sheriff?

The Witness: Thank you, sir.

Just greetings, they would come up and want to shake hands with me and say hello and, of course, every one that did, why, I would let them say what they wanted to and they wanted to greet me and see me.

Some had—well, during the evening, three or four had said they had seen me in my Jackson speech six months before down in Jackson, Mississippi, and so there were several that had other places and some had never saw me before, just heard, didn't recognize me.

And as they would come up and greet me, then I would turn the conversation immediately to find out what had gone on on the campus, what it was all about and what had happened.

And that was sort of the conversation that went on continuously all evening.

By Mr. Gooch:

Q. About how many people came up to you there on [fol. 880] your first entrance to the campus, General?

A. Oh, I would say 15-20 people, probably shook hands with me out of what was standing around, what saw me.

And then there were people right beside me that would look up surprised and say—they didn't know who I was.

Q. Did any of that crowd or the 15 that came around with you, whether it was a crowd or not would not be proper, but any of that group that came around you, did they ask you to lead them?

A. Not early, sir, not until—not at that time in particular. There was some students coming back, you see. I wasn't the whole center of attraction at any time there. There were people coming back from throwing rocks and up in the tear gas, boys in T-shirts and sweaty and hot and talking about what was going on up there to their friends back there.

There were people going and coming. That took a lot of the interest and all I had to do was just listen to what they were saying.

So lots of times I was listening to people didn't even know who I was, didn't even know I was there. They didn't know I was listening to their conversations.

Q. The people in the first group that greeted you there, were they all students or of student age, I would say?

A. Well, there were some spectators around, say there was 15 or 20, I would guess, that weren't students, sir.

[fol. 881] The students were more down towards the buildings and in their own areas, you might say, and up towards the front in the grove.

We were in the area where the spectators—you are looking a little bit downhill when you go down University Avenue from the monument, so you are not seeing too much on the campus. In fact, you are just seeing a light up in front of you that's lighting up a monument in about 60 feet.

So the only spectator position that will show anything about what's going on on the campus has to be pretty close to that street light.

Then if you stand in the street light, it's not good because you are lighted and the rest of the area is not, so you don't—you move, move out in the light, you see, to get out in the shadows somewhere or where it's a little bit less light so that you see better to the front.

Q. As you approached this small group or while you were talking to that small group, did you see any of the students come by going east with a chemistry professor that had just been beaten up?

A. No, sir.

Q. You didn't—that didn't—so far as you know, nothing like that happened?

A. Oh, it may have come by. I didn't see everything that was happening. There were things going on every-[fol. 882] where. There weren't—everybody there just wasn't paying attention to me.

Q. All right. Now after you had been, talked to this group, of, say, 15 under the light, where did you move to, General?

A. As I indicated yesterday, I believe I moved around on the west side of the monument within about 15 or 20 steps of the monument, first on the south side as I crossed over, talking to people and then crossed over to the west of it about 15 or 20 steps, talked to more people.

Q. When was it that some of the crowd or some of the people indicated, "Here is our leader. We have a leader now. General Walker is here."?

A. Well, in this timing we are using, Mr. Gooch, it would have been, say, now we are 15 minutes ahead after I am on the campus—

Q. Yeah.

A. —I would be in the trees, just from 10 to 20 steps from the monument, and I heard students began, saying, I—"We have a leader."

[fol. 883] Q. Did one of the students say to you, "General, will you lead us up to the steps?"

A. Oh, they asked that many times. "Will you get us organized, will you lead us?" That was the predominate question on the campus.

Q. All right. Now, after these conversations with these entreaters, did you go toward the Lyceum Building, General?

A. Yes, sir, I walked up a little bit further. Not toward the Lyceum Building, toward the flagpole. That is still practically out of sight of the—you cannot see—I couldn't see all of the Lyceum Building. I couldn't see Marshals from the flagpole. So, I moved up a little toward the flagpole; about halfway.

Q. Physically, the flagpole is on a direct line from the monument to the Lyceum Building?

A. Yes, sir, about straight.

Q. Well, I don't want to quibble, but if you were moving toward the flagpole you were moving toward the Lyceum Building, were you not?

A. Yes, sir.

Q. Did anybody go with you?

A. Three or four, probably the Sheriff and Louis Leman stayed pretty close by. I never was aware of exactly where he was, except certain times when he would be talking with [fol. 884] me.

Q. You say only three or four went with you as you walked?

A. Within fifteen or twenty feet of me, yes, sir, maybe five or six. But the others weren't paying any attention to me. Then somebody would come on by me and come up to me. "You couldn't see more—you couldn't identify anyone more than about twenty steps at the most."

Q. As you—before you walked westward toward the flagpole, we will call it, that is when the people had greeted you down there by the monument, shouted to you, "Here is our leader, will you lead us to the steps," and then you started toward the flagpole; is that correct?

A. Mr. Gooch, it is like this: The story at Oxford was done at Oxford. And the—there wasn't any leading of anybody up toward the flagpole, or anything else. We were just standing around in the area. I wanted to get a little bit closer, hoping I could see after I got out from under the light, we were discussing what had gone on on the campus, and I just moved up toward the flagpole to see what was going on. There wasn't anybody paying any particular attention to me except people standing maybe ten steps from me, and there wasn't—there wouldn't have been six or eight.

I will say there were three or four people over here, [fol. 885] there were three or four people over there, and there may have been at any one time three or four people by me, and maybe three or four that moved up there with me. Leman, the Sheriff, maybe one or two others. And then maybe three or four joined us there, and discussed something.

The other question was, "General, what about Cuba? Will they use Military forces here—when we are—why are the Military forces coming here, when Cuba is in the situation?" This is one of the typical questions that was going on. Yes, sir.

Q. General?

A. Yes, sir.

Q. Back to the question. As you went toward the flagpole, I believe you stated there were only four or five that went with you, or followed you?

A. In the immediate vicinity that were paying any attention to what I was doing, yes, sir.

Q. All right. Now, you mentioned this Deputy Sheriff. What was the—when was the first contact you had with the Deputy Sheriff relative to your entrance onto the campus proper?

A. I would say it was after that ten or fifteen minutes, which extends to maybe twenty minutes and he is out in this fifteen or twenty steps from the monument where he came up, or I went up to him and spoke to him.

[fol. 886] Q. And then in that conversation is it true or not that you asked him to deputize you?

A. The deputization was mentioned. I had no idea anybody could deputize you under a tree. It was just sort of a facetious statement.

Q. Did he tell you he could not deputize you because he was not from that county and even if it was his county he couldn't deputize you?

A. He mentioned that, yes, sir. He thought it was more serious than I did, I guess.

Q. Then, did that Deputy Sheriff stay with you pretty well throughout the night?

A. I never was aware that he was with me pretty well throughout the night, sir. Somebody stepped off fifteen or twenty steps away from you, he could be with you, or if he was watching you or paying any attention to you. But there were other people that were up by me, three or four or six, talking about something else, so I am not aware of where he is. But in general, I will say, I heard his testimony, it sounded like he probably knew pretty much what I was doing during the evening.

Q. Now, as you got there to the light you said some ten or fifteen people gathered around you from time to time. Could you give us an estimate of how many people you saw down around there—down around the flagpole—not the [fol. 887] flagpole, the monument?

A. Around the Confederate monument?

Q. Yes, sir.

A. Oh, I guess in the area of the shadow of the light you could see about sixty people standing around talking, seventy people, something like that.

Q. You mentioned a figure yesterday from one hundred to one hundred fifty. Where was that group?

A. Well, if you included the people down the street, and start them, but they could hear what is going on. And they, if they were lined up down there, as I came through, they were in groups, sometimes threes and fours, why I

don't know what happened to them, but they were facing the street, sort of. There wasn't anything to see what came and went from the campus, I guess, but that is sort of downhill and—

Q. Then, at the time you got to the campus, first went on the campus, you say there were fifty or sixty people around the monument, and that that, together with the rest of them back further east on University, would total up maybe to a hundred and fifty to two hundred, or a hundred to a hundred and fifty, whatever you said?

A. Well, I couldn't see it, sir. This would be my judgment—my judgment. Now, there were people out in front of the flagpole throwing rocks, and tear gas is coming in, [fol. 888] into the whole area. The whole area is permeated with tear gas. I could smell it when I got to the monument, certainly, or even to the lamp post, and I asked somebody, "What is that?" To reidentify it, and in answer to the question, I guess there definitely must have been—what I could see—couldn't be more than one hundred people from the time—from the lamp post to around the monument.

I probably wouldn't have seen but about one hundred people, except down on the street there were probably another sixty or seventy people, down as far as the bridge. There were twenty or thirty people standing on the bridge.

Now, the reason for this dissertation, nobody knows what area your question is about.

Then if you want to surmise, I would surmise there were six or seven hundred students over this whole area, maybe a thousand. I don't know. They were in dormitories, coming out of dormitories, in and out of the YMCA, from what I heard. I never saw these buildings. And when you want to take in the whole Lyceum, the whole dormitories, the canteen down behind the Lyceum and everybody interested in what is going on, or interested in doing something about it, as far as looking and seeing, in and out, keeping up in [fol. 889] general with it, why, most of them were spectators. I guess there were six or eight hundred or a thousand people all over that area.

I am coming back to your question in this—that around the area of the monument, at the time we have discussed now, and I am talking to the Sheriff, and I am moving up to the flagpole, I saw not more than one hundred to one hundred twenty-five people, around in groups.

Q. What did you see when you got up in the vicinity of the flagpole?

A. Up to the vicinity of the flagpole?

Q. What did you see when you got up there?

A. Well, now, this is later.

Q. No, talking about the same time?

A. Well, half an hour later, say, or twenty minutes—

Mr. Watts: I don't think he heard you.

By Mr. Gooch:

Q. General, you stated that after you were greeted by this ten or fifteen people you went on west toward the flagpole. You did testify, however, that you were going toward the flagpole, not the Lyceum.

Let me ask you this question: You had been on that campus at least twice before you went on there that night, had you not?

A. In an automobile, just through a campus.

Q. You knew where the Lyceum Building was, didn't you, [fol. 890] prior to the time you were on the campus that night?

A. No, sir.

Q. All right. I understood you to testify that after you had been greeted there by, or shook hands with this ten or fifteen people, there under the light, you moved on a little bit west of the flagpole, and that is when they said, "Here is General Walker, we have got a leader, lead us up to the steps"?

Mr. Watts: If the Court please, I object to that statement. It includes factors not in evidence. The witness did

not testify he was ever west of the flagpole. And he—that is unfair cross examination and argumentative.

The Court: Overruled.

By Mr. Gooch:

Q. I believe you stated, that you, with some three or four people went west toward the flagpole?

A. Yes, sir.

Q. Now, my question that I asked a moment ago is what did you see after you had walked west toward the flagpole?

A. Your question was when I was in the vicinity of the flagpole, Mr. Gooch. Nobody knows what "vicinity" means. It could be five hundred yards, or ten feet. This—

Q. Wait a minute, General.

[fol. 891] You had walked westward one step or ten steps, it matters not—

A. I am about—

The Court: Just a minute, please.

A. Yes, sir.

The Court: He hasn't quite finished his question.

The Witness: I am sorry, sir.

By Mr. Gooch:

Q. I am asking you when you first made some movement to the west what did you see? Describe—give us a graphic description of what you saw, General?

A. I believe I have stated what I have seen, with regard to the people. Do you want me to repeat that?

Q. No, I am trying to find out—

A. I will say, then, that I was looking almost toward the Lyceum Building, in general. Looking toward what the people were doing, looking toward noise; anything like that would attract my attention. I was talking and shaking hands with people. I was seeing people coming and going by. I was seeing people coming and going by from east to west, going up in front of the flag, out from the Lyceum

Building. They would hit in general—their direct fire would hit about thirty to fifty steps short of the flagpole, west of the flagpole. They might roll, every now and then, one fired would roll to the flagpole. It could go that far. That [fol. 892] is the ones that were directed in this direction.

Now, then, I was trying to see what I could see of how many students there were, and how many other people there were, and basically what the Lyceum Building looked like, the Marshals and so forth.

I could not see them from where I stood. I couldn't even make out the outline of the Lyceum Building. There was a light up there. I could tell there was a building and a—a reflection. I couldn't even be sure that I could see the movement in front of that building, and couldn't identify Marshals from this position. So, there wasn't too much to see.

I was getting more information in talking to people, and seeing what had happened. I was interested in what happened on the campus.

Q. I believe you said on yesterday the most people you saw at that time was around thirty, that was between you and the Marshals; is that right?

A. I would say directly in the Grove and between the Lyceum Building and between me and the Lyceum Building, the flagpole and Lyceum Building, was about thirty and scattered groups that I could see at that time. Now, there was just enough light to see in certain areas.

Q. What were they doing, those students you saw? [fol. 893] A. You might say they were up there to harass and antagonize the Marshals, in general protest.

Q. Did you consider it a riot?

A. Not what I am looking at and that we are discussing now. Not that portion of it, no, sir.

Q. Did you see or observe or remember about a newsman's car that had been smashed, and its camera, the car caved in somewhat, over to the south of the Circle?

A. Later I heard about it. I knew about it when it was going on. I asked a student what that racket was. I could

hear it. I don't know what time this is. This might have been ten or ten thirty, or it might have been earlier. But I could hear a racket going on up there, and I asked a student, "What is going on up there?" And he said, "They are breaking up a news car," that I had already discussed with them about, "Well, why are they after the news car?" And, well, the discussion came out that they told me stories about the newsmen asking them to do things so they could take pictures of them doing it. I heard stories like that.

And he said they probably asked them to beat up the car.

But, anyway, I heard them breaking up the car and I moved around, and when this was, say about 10:00 o'clock, I moved up again short of a line through the flagpole, and [fol. 894] listened to see if I could identify what was going on. I never saw it. I couldn't see it. Lights were all out, it was as dark as it could be. Not all the lights. There was one little light, as I remember, at this time up to the right of the walk that heads toward the Lyceum Building; way up toward the Lyceum Building.

Q. Now, General, at the time we are discussing now, and we have gotten up to 10:00 o'clock, which is fine. Up to that time had you seen anybody that approximated your age, or were most of them students?

A. From the time I came on the campus?

Q. Yes, sir.

A. Yes, sir.

[fol. 895] A. Yes, sir, I've seen people that approximated my age, older and younger.

Q. In the group that went up with you towards the flagpole, were some in that group?

A. As I remember, the Sheriff started with me or went with me or talked to me during that time, or was by or left or something.

And Louis Leman is bound to have been close by. And there were—I don't remember anybody in particular at that time.

Q. Did you at any time that night see any students engage in what you considered to be rioting?

A. Well, there is no doubt, sir, that you could say over-all, if you have talked about the situation, there was a riot on the campus but I saw—entirely different what I saw and what happened on the campus. I didn't see everything. I didn't get on the campus until a lot of things had happened.

Q. I suppose it would be impossible for one to see and have heard everything on the campus that went on, General?

A. Certainly would have.

Q. Would you say, based on what you saw and what you heard, that there was a riot situation on that campus that night?

A. Yes, there was a riot situation, over-all, on everything that happened on the campus.

[fol. 896] Q. All right. Now let's go back, if you will, and I apologize for skipping, but we are now back to the time that you and, you say, four or five went towards the flag-pole, after you had been greeted there under the light and had talked to those students and after you had been asked to lead them up the steps.

Now as you got up there, you say you observed and you couldn't see the Lyceum Building. I believe you stated that?

A. I didn't say that, sir.

Q. Well, I misunderstood you.

A. I said I couldn't see the outline of the Lyceum Building. I could see there was a building there and I knew there was a building there and I knew it was the Lyceum Building.

We discussed the Lyceum Building through all these conversations. We knew what we were looking at.

Q. All right. Now after you had seen what you have described, did you start back eastward towards the monument?

A. Well, I went back to the monument, right, and to that vicinity, right within 30 or 40 yards of it.

Q. Was it on that trip back that you encountered the Reverend Duncan Gray, the incited, excited little minister?

A. Well, it was either on the way up or on the way back, or in general; it was along in that period.

[fol. 897] Q. He asked you to stop, help him stop the rioting, did he, General?

A. He said, "You can stop it."

Q. What did you say to him?

A. I said, "Why don't you stop it?"

Q. And what did you say then or what did he say?

A. I don't remember the sequence, but the idea was he wanted me to stop the—the demanded and was frenzied about it and was all upset and excited and—over, I believe—didn't we—wasn't this—shall I repeat everything that's been said on this before?

The Court: Yes, go ahead and answer his question.

A. Well, I—his approach was all excitable and frenzied and just turned my back on him and walked off and I even again, when he approached me, why, I twisted the other way and went to talking to somebody else.

Q. Did you tell him you wouldn't stop it if you could?

A. I don't recall saying that.

Q. Would you deny that you said that, General?

A. I don't recall it.

Q. All right. Now was it then or later that you told him and the crowd that you were ashamed of being an Episcopal?

A. I remember telling him that.

Q. And you repeated that on the monument later?

[fol. 898] A. I didn't remember that I did but I have heard many witnesses say that they heard me say it on the monument. Maybe I did.

Q. It's pretty difficult for a person to remember all at this stage what he did say on a given occasion, isn't it, General?

A. The key areas of what you said and didn't say and whether you charged or not are very easy to remember, Mr. Gooch.

Q. I understand that.

A. Certainly wouldn't forget whether you were leading charges on the campus or not.

Q. I understand that. But I am talking now about the question of what you remember you said and, to be blunt about it, you have heard a lot of witnesses given conflicting testimony up to this point as to what you have said, haven't you?

A. Pretty clear statements, I think, so far.

Q. And the ones that you have heard so far, without enumerating them, do they represent generally what you recollect you having said, the clearness of the statements by the witnesses thus far?

A. Yes, sir.

Q. Do you concur in what the witnesses thus far have said you said on the monument?

[fol. 899] A. Their's is a guessing and their's is a remembrance (sic) and their's is a—I'm not substantiating that the actual details of what they said versus what I say, or in general what they have said about the situation that night and about everything that's there is the best of their memory and paints the picture about as I see it.

But we are not—we can't make the same words, Mr. Gooch.

Q. Nobody can make the same words, General. The reason I asked you that question you said that up to now the witnesses who have testified painted a pretty clear picture of what you had said on the monument.

Now all I asked you to do was either affirm or deny that statement.

A. I would rather refer to my own remarks about what I said on the monument. And I'll stand on those. And what supports those, the witnesses are correct. What doesn't support them, that's their opinion.

Q. All right. Now with relation to the time that you first went westward toward the flagpole, did you go westward at any time thereafter and prior to the time that you made the speech on the monument?

A. I never went—no, sir, never went past the flagpole. I was way short of the flagpole.

Q. No, I don't mean that time, General. I am talking [fol. 900] about—and please try to follow me and I believe we can get along a little faster. You have stated that you and a group of four or five did go towards the flagpole?

A. That's right.

Q. There you encountered Duncan Gray and you came back to the flagpole?

A. Yes, sir.

Q. Now my question is, did you go back westward at any time prior to the time you made the speech on the monument?

A. Yes, sir.

Q. All right. Tell me about that.

A. I moved five or ten feet west, steps westward, to talk to somebody else.

Q. All right. Anybody go with you?

A. Nobody that I know of.

Q. All right. After that few steps to the flagpole, did you go westward any more before you made the speech on the monument?

A. Now we are, say, half-way between or a third of the way between the monument and the flagpole?

Q. Yes, sir.

A. All right. In general, I moved five feet, five steps, east, or ten steps, ten steps north.

Q. All right.

[fol. 901] A. Talked to somebody.

Q. All right. Then are we about back down now to where you were at the monument when you—

A. No, I moved 20 steps south, talked to somebody.

Q. All right. What else?

A. Then I am in the vicinity of the monument.

Q. All right. Now when you got back to the monument and shortly before you made your speech, was there any urging you on to lead them at that time?

Was there any urging to lead them at that time?

A. This is turned in—basically, the question before, starting to lead was to start to ask, “Will you talk to us? Will you make speeches.”

That was the predominating question about that—I believe I said—“Will you lead and organize us?” That came a little bit later. That was interspersed, too.

But the main question, “Will you talk to us? Will you—will you make a speech?”

Q. All right. Then you did make a speech?

A. If you call it a speech. I got up on the monument and talked to them.

Q. Well, did you make a talk to the students, General, we'll put it all—we'll put it that way?

A. Yes, sir.

Q. Can you outline as best you recollect what the entire [fol. 902] speech, as you made it that night, or talk, was?

A. I told the students that they had a right to protest, they could continue to protest but that this was no place for violence; that the truth and the tragedy of this situation was indicated by a sign on their own airport which said, “Cuba is that way (indicating);” that nobody came to Mississippi—and these were my exact words—nobody came to Mississippi for violence. Violence is not intended.

I said that if there is any violence on the campus, it is on the hands of the Federal Government.

When I said there was no violence intended, there was a rousing moan and boo and, “He's not going to do anything. Let's go.”

And I waited until it calmed down and people began off the fringes to leave and there they were talking back and forth, “He's not going to do anything. What's he here for? Let's go on.”

And during this, probably before this point, a minister, as we have identified as Duncan Gray, something catches the side of my leg. Again he's grabbing ahold of me and he's sort of clawing his way up to get up on the monument.

I don't remember exactly what he said. I think I said, "The minister would like to speak but I am talking now. And he can speak and say what he wants when I get through."

[fol. 903] And there was a—the reaction was, "Get him off of there. Get ahold of him. Jerk him down."

And some boy walked across in front of me that looked ready to take him apart and the inference was that I sort of quit, watched, looked at it. And I am looking down, I am about 15 inches or 18 inches higher than the other people, and somebody pulling him off.

And I waited and somebody had took him around to the left side and I went on talking.

And I had made the determination only changing my mind after refuting time and time again, that I had nothing to say and all the time finding out what was going on, on the campus.

At this time, before I got on the monument, there was a discussion, and it began to pass the word around the crowd and excitement over the fact and getting mad over the fact that Governor Barnett had sold the students out, he had—that "We are sold out. Let's get going. Let's do something."

And then people had said, "Will you speak?"

There was a drunk there on the campus that was quite drunk, talking about an old frontier and new frontier, an Alamo frontier, and he was just all mixed up, he wasn't making any sense at all.

And I had to walk off from him about five or six times [fol. 904] and he was as drunk as he could be, to be standing, in my opinion.

And I decided, when the situation, as was, as it was at this time, I changed my mind and I said—actually Louis Leman came by me and said, "Those students really want you to talk to them."

And I said, "All right," to the next students, I said, "All right, I'll speak to them."

In the meantime—you want me to go ahead?

Mr. Gooch: General, the question I asked you originally was to give everything you said on the monument. That was the question I had asked you.

The Witness: Right, sir. Well, we will go right on to it.

By Gooch:

Q. All right.

A. Been a long time getting to the monument, sir.

Q. No, you had—well, go ahead.

Mr. Watts: Go ahead.

By Mr. Gooch:

Q. I had asked you to detail what you had said on the monument. Now if you have finished with that—

A. Now we are on the monument. I have stated what I have said, as I recall so far. These were the major, important emphasis, points I was getting across.

Very carefully—this is a very unusual situation. The [fol. 905] reason because, not as Savell stated, that I said that the Governor had betrayed you—that is exactly what I didn't say. And that is exactly why I got on the monument, to stop the rise in the determination to do something over the Governor getting out.

I got on the monument just when they began to say this and now I have just come out of the courthouse about two or three hours before, and had heard the story of Sheriff Moore told to the Sheriffs, the Governor's representative, and so I am on the monument and I am speaking to the students and I wanted to make this clear to them, that the Governor had not sold them out, that the Governor's orders had not been followed out and his desires, that a representative of his—not mentioning the man's name—but definitely his representative—I'm not telling you this but I am telling you what I heard at the courthouse this afternoon, and that is that the Chief of the Highway Patrol, Birdwell—and I realized, thinking of Birdwell, that I am misusing

his name, that's not the right name, and I turned down to somebody to my right, which I didn't know at the time but it was Mr. Leman and he said, "Birdsong."

And I said, "Mr. Birdson, according to this representative, escorted and accompanied, you might say, Meredith on the campus that afternoon," and that this was not according to the representative, the Governor's desires, and [fol. 906] this is not the way the rumor I am hearing on the campus now.

Q. In other words, you were telling them at that time that your best information was that Governor Barnett was still protesting the entrance of Meredith, on the campus, is that correct?

A. I was telling them that Mr. Birdwell had brought the, had escorted, or been with the group that had come on the campus with Meredith and that Governor Barnett had not sold them out.

Just before this, the Highway Patrol had left, as I remember. On a group of cars coming off the campus. This was before I got on the monument. Pardon sir?

Q. General, you were telling them that the Governor had not sold them out, that Birdsong had sold them out, and that the Governor was still standing fast in his original position with respect to the entrance of Meredith, were you not?

A. I didn't say that.

Q. Was that the implication, would that be a reasonable implication?

A. I believe that's your statement, Mr. Gooch.

Q. No, I am asking you for yours, General?

A. No, sir, it's not.

Q. Now have you told us all that you remember of your [fol. 907] statements made on the monument?

A. I have told you all I remember, as I did before. Unless something else refreshes my memory.

Q. Well, I believe when your deposition was taken in this case, that with respect to violence, you stated that what you told them, that no violence was intended, do you recall that?

A. No, I don't, sir.

Q. All right. At the time you told them that they had a right to protest, did you tell them that they had a right to keep up the protest?

A. I told them they—they could continue to protest, right.

Q. By continuing the protest, did that mean that they could continue, that you thought it was all right to continue what they had been doing?

A. I didn't say that, sir.

Q. Did you know at the time you told them that they had a right to continue their protest that they had been throwing rocks and bricks and missiles at the Marshals?

A. I knew that they had been throwing rocks at the Marshals, yes, sir.

Q. All right.

A. And that they had been fired on by the Marshals continuously.

[fol. 908] Q. Now let's—at any time that night, did you ever loosen your tie and collar, General?

A. Yes, sir, my back was getting tired. This is over a period of four and five hours, you might say, until, I think when I left about 1:30 or 2:00, and my back was getting tired, say, around 11:00 o'clock, something like that.

And I felt like I was getting a headache and took off my hat and stood under a tree for—over to the left of the monument, for 20 and 30 minutes at a time, took my—loosened my tie.

And when I did it, I was entirely by myself, except maybe Leman may have seen me or somebody, and loosened my shirt collar.

Q. I quote from your deposition, Page 253, with reference to what you said on the monument:

"I stated that any blood shed on the campus would be on the hands of the Federal Government."

A. That's right, sir.

Q. "That the students had a right to protest." Correct?

The Court: I don't think he heard you, Mr. Gooch.

By Mr. Gooch:

Q. Correct?

A. Will you repeat that?

Q. That the students had a right to protest?

A. Yes, sir, but your reference is to—I don't know I [fol. 909] said it in that sequence. The sequence would make a lot of difference.

• Mr. Gooch: Get the deposition. I believe that I quoted it exactly as you said it, General.

Look at Page 253, at Line 14.

A. Line 14?

Q. Yes, sir.

[fol. 910] Q. Did I quote you correctly?

A. May I read it?

Q. Yes, sir.

A. I am looking for the question, sir? Have you got the question?

Q. I guess it is the line before the answer.

A. Back to line three?

Mr. Address: Line one, "By Mr. Cravens".

A. Is this the question?

By Mr. Gooch:

Q. Yes, sir, the last question up there—I am asking you about the speech you made on the monument and what you said. The question just before the answer, "Can you answer the last question?" And your answer, "Yes, sir, be happy to, sir." And then your answer, as I get it—

A. "I am asking you about the speech you made on the monument." And I stated, "That any bloodshed on the campus, that this was—any bloodshed on the campus would be on the hands of the Federal Government; that the students had a right to protest; that no violence was intended and nobody came to Mississippi for violence. That the tragedy of the situation was very obvious with respect

to Cuba and what was going on in Cuba, and it was well reflected by signs on their own airport that said, "Cuba that way."

[fol. 911] And this statement doesn't even cover the Birdsong activity.

Q. I didn't ask you about Birdsong in the question. I asked you if you made the statement that you just read.

A. Yes, sir, but that is not the sequence of the speech.

Q. The sequence of what?

A. That is not necessarily the sequence of the way—I couldn't identify the sequence of what happened.

I am—what I am saying, Mr. Gooch, that in the intent of that speech, and the general tone of it, was to keep the students from any violence; to keep them in the area of a protest only. I intended to keep them in the area of protest, to try to stop any violence that was possible. Any violence on that campus would have been exactly opposite to what—and would have played right into the hands of the use of tremendous Military force. Any violence would have played right into the hands of the use of Military force.

As it was, the thing was looking fantastic and ridiculous. Absolutely ridiculous. It is still ridiculous, with 23,000 troops on the campus. Any fifty or one hundred men could have put any student on any campus in the United States on a week day.

Q. General, the question I originally asked you was to [fol. 912] reaffirm as to whether or not you had made the statement which is attributed to you on page 253 of your deposition. That is all I asked you. No sequence at all. I just asked you if you made that statement in the deposition.

A. I made that statement in the deposition referring to general things that were stated in the speech as I remembered it at that time.

The overall—I will take that—retract that. If it is in the deposition, definitely I said that, sir.

Q. Did you say also in the deposition, I believe at page 255, that Col. Birdsong was in violation—"In fact, he said

that Col. Birdsong was in violation of what the Governor ordered and desired?"

Mr. Watts: Correction, Tiny. "What the Governor wanted and desired."

Mr. Gooch: Maybe I have got the wrong one. Wanted and desired.

A. That, yes, sir.

By Mr. Gooch:

Q. Now, did you tell them, again on the monument, you were ashamed you were an Episcopalian?

A. I may have. May have not.

Q. All right. Now, General, I am going to ask you these questions relative to the remarks that you made on the monument to see whether or not they conform with what [fol. 913] your recollection is of your speech.

Did you say, "Marshals ought not to be here"?

A. I don't recall that.

Q. Would you say you didn't?

A. I don't recall it.

Q. "You have a right to demonstrate against the Marshals being there." Did you say that?

A. I certainly don't recall anything like that.

Q. That, "They had a right to protest against what happened there and that the Marshals being sent in against the University to make sure Meredith got in . . ." Did you say that?

A. Will you repeat that?

Q. "That they had a right to protest against what happened there and the Marshals being sent in against the University to make sure Meredith got in." Did you say that?

A. I said only that they had a right to protest, as I recall.

Q. Did you say, "You may not win, but you will be heard"?

A. I may have said, "You may be heard." I don't recall the other.

Q. You didn't say, "You may not win"?

A. I don't recall,

[fol. 914] Q. Would you say you didn't?

A. I don't recall it.

Q. Did you say something to the effect that they had been sold out by the Kennedys?

A. This is the speech on the monument?

Q. Yes, sir.

A. I don't recall it.

Q. This statement is attributed to you on the monument while you were making your speech. "Protest all you want to. They might run out of gas. Help is on the way. Thousands are coming."

A. No, sir.

Q. You did not make that statement?

A. I don't recall anything like that.

Q. Did you make this statement: "It is wrong for the Marshals to come in and force integration."

A. I don't remember making that statement on the monument.

Q. Did you ever make a statement that it was wrong for integration to be forced?

A. Did I ever?

Q. Yes, sir.

A. That it was wrong for integration to be forced?

Q. Yes, sir.

[fol. 915] A. With reference to Military forces, yes.

Q. I am talking about in the absence of Military forces. Did you ever make the statement it was wrong to have forced integration?

A. Anywhere, on or off the campus? Yes, I have. To force integration.

Q. Regardless of Federal troops or otherwise, is that right?

A. I am talking about Marshals, Federal troops or any way. I have made that general statement. I don't believe it is right.

Q. All right. Did you ever make this statement: "You are fighting a good fight. Keep it up. Help is coming. Don't be discouraged."

A. I recall no such statement.

Q. This statement: "You have every right to protest." Did you make that statement?

A. Yes, sir.

Q. "It is your constitutional right to protest." Did you make that statement?

A. I probably have said, "You have a constitutional right to protest."

Q. And, "I will lead you in your protest." Did you make that statement?

A. I don't recall it.

[fol. 916] Q. Did you make this statement—

A. Are we referring to just on the campus, now, or somewhere else?

Q. Talking about on the campus.

A. I don't recall it.

Q. Did you make—

Mr. Andress: Pardon me, isn't the question "On the monument?" I thought it started out on the monument only.

Mr. Gooch: That is what I am talking about. I am asking him if these statements weren't made on the monument.

The Court: I think he has referred to the word "campus".

Mr. Gooch: Excuse me, I am using campus and monument synonymously, and I apologize for that, but the original question I asked him was what was said on the monument.

The Court: All right.

By Mr. Gooch:

Q. Did you make this statement, "You will be heard all over the world"?

A. I may have made a statement to the effect that, "You will be heard," or something of the sort. Seems to me I remember such a statement, that they would be heard.

Q. General, at the time you made this statement on the [fol. 917] monument you knew there had been casualties?

A. I didn't say I made that statement, Mr. Gooch.

Q. No, at the time you made a statement on the monument?

A. No, sir, I didn't know there had been casualties.

Q. Didn't you testify prior to the time you made the speech a man came up with blood on his stomach, pulled up his shirt or pants leg or something?

A. Oh, casualties, yes, sir, of that type. Yes, sir. My mistake.

Q. That is what I mean.

A. My mistake. I was referring to other type casualties. Yes, sir. I knew there had been some minor injuries, and there had been reports of some major injuries.

Q. You knew that the students were throwing bricks, bottles and missiles at the Marshals prior to the time you made that speech, didn't you?

A. Yes, sir.

Q. Did you ever say on the monument, "All right, I will lead you"?

A. I don't recall any such thing.

Q. Did you ever make the statement, "Stand by your Governor"?

A. No, sir—yes, sir—oh, "Stand by your Governor?" [fol. 918] Q. Yes, sir.

A. I may have.

Q. I am still talking about the monument now.

A. Yes, sir.

Q. Did you make this statement, "You have a right to protest in any way you see fit, even if it involves violence or bloodshed"?

A. I recall no such statement.

Q. The next one on the monument, the speech on the monument, "I want to congratulate you students on what you are doing here this evening."

A. I recall no such statement. I recall referring to congratulations regarding protest. Not necessarily on the monument though.

Q. You did congratulate them on the protest at some other time?

A. I have mentioned that protests were perfectly all right if they kept it to a protest.

Q. Did you compliment them on the campus that night, on the protest they were making?

A. You are talking about all over the campus?

Q. Yes, sir.

A. Referring to just protest, I had said, "You have a right to protest." And I have used the word "compliment" [fol. 919] on protest, but not anything else; to talking.

Q. Did you make this statement on the monument, "There are thousands who are behind you, or with you, and you will win in the end?"

A. I don't recall it.

Q. Now, deviating a moment from the speech, did you ever—were you ever asked where these tens of thousands were that you had talked about on the news releases?

A. Probably in passing around somebody asked me, "Is anybody coming?" Or, "How many," or what?

Q. Did you make any reply to that?

A. Usually not. I didn't know.

Q. Did you tell them, "They will be here when needed?"

A. No, sir.

Q. Did you give any advice that night, General, on an effective method of putting out or combating tear gas?

A. I remember standing way back during the course of the evening and discussing what was going on with people, and I remember somebody standing by me just quietly, and saying, "What is the Military do to put out tear gas?" And I said, "As far as I can recollect, if water doesn't do it you can use sand."

Q. Anything else said about it?

[fol. 920] A. I believe so. I believe I said something about, "I don't think you have got any sand. No sand is available, or where would you get sand."

Q. What was said then?

A. I guess the student walked on off. I don't know what was said.

I gave no orders or directions to anybody to do anything. He asked me a Military discussion, what usually happened, and how you did it. Well—

Q. General, at any time prior to the time you made the speech on the monument did you see any wheelbarrows or carriers bringing up bricks from the building under construction down on the south side of the campus there, or south side of the Circle?

A. I don't remember seeing them, Mr. Gooch. I know brick were coming up from the thing because the students told me at different times they were getting brick from down there, and I saw the old building. I didn't know whether they were tearing it down or putting it up. Had a lot of weeds and stuff around.

But I don't remember exactly seeing a wheelbarrow, but I know that from time to time I knew there were some bricks coming from down there. I didn't actually see a load of them all night.

Q. You did know they were coming from there?

[fol. 921] A. Yes, sir, the students told me. I asked them and they told me where they were getting them.

Q. And you knew the purpose for which they were being brought up there, didn't you?

A. Well, as I believe the witness said, you can't pull up the pavement, hardly. But it seems to me I saw a fence all torn up, or something, and they were getting pieces of that at one time in the evening. Or they said something about tearing up a fence, or something.

The Court: Let's recess at this point, ladies and gentlemen. We will recess until a quarter until 11:00.

(Short recess was had.)

[fol. 922] Mr. Gooch: General Walker, prior to the time you went to Mississippi on September the 29th, 1962, you

had been told by Mr. Leman that there was an explosive situation on the campus of the University of Mississippi, were you not?

A. He may have used those terms.

By Mr. Gooch:

Q. You also knew at the time you went to Mississippi on the 29th of September that feelings were running high in Mississippi, did you not?

A. Yes, sir.

Q. You also knew that your going to Mississippi would create considerable publicity and create a protest, did you not?

A. I knew it was a protest. I had no idea what publicity it would....

Q. Turn to deposition Page 91. Question on Page 91: "Of course, you knew in September of 1962, that your going to Mississippi would create considerable publicity, did you not?"

A. Considerable publicity, yes. I didn't know how much, sir.

Q. With respect to the Mississippi situation, I believe you stated prior to the time you went to Mississippi the following:

"This is a critical situation. There is nothing lawful [fol. 923] about forced integration. It is not on the book. It would have to be passed by Congress to be lawful."

Did you make that statement, General?

A. At what place and time, sir?

Q. On the 28th, September 28th, 1962.

A. To who?

Q. To a newsman in Dallas?

A. I may have.

Q. Those were your sentiments, were they not?

A. My sentiments were that any—that the over-all integration problem as it's being run today should be legislated by the Congress. Those are my sentiments.

If this is what they intended, it should be legislated by the Congress of the United States, the representatives of the people. That's what I felt at that time and I haven't changed, sir.

Q. You previously testified that after your press releases on the September 26th, 27th, 28th, and 29th, did you not, that you got hundreds of calls from across the country from people who said they were accepting your appeal to come to Mississippi?

A. Yes.

Q. Did you testify in your deposition that when you arrived on the campus there was an explosive condition of excitement, resentment and turmoil?

[fol. 924] A. Yes, I did. I may have said, "explosive," or —did I say, "explosive"? Are you quoting from the deposition?

Q. Yes, sir.

A. Right, sir, I did.

Q. Did you testify in your deposition that you never at any time saw any one throw a brick or other missile towards the Marshals?

A. I believe I did, sir. I didn't see the brick thrown.

I testified in my deposition that I, as I recall the deposition—it's 400 pages long—but as I recall the deposition, and I can restate what I saw on the campus, I never saw anybody throw anything that I could identify.

Now I saw people going through the motions of throwing and I—but I was not close enough to see what they were throwing, except I believe I testified in my deposition I definitely did see a student that could pick up the missiles as they were laying burning on the ground and throw them back—he couldn't throw them back into the Marshals in most cases, I would say never could, because he couldn't get them back that far.

But I saw one student, which was amazing, that had learned how to pick up a burning missile that was spewing tear gas, he would reach in under it somehow and throw it back towards the Marshals.

[fol. 925] Q. Did you ever see any Molotov cocktails being made or Coke or soft drink bottles filled with gasoline?

A. No, I never saw any.

Q. Did you determine that they were being made?

A. They told me they were, yes, sir, some students said that they—and I knew that they were.

Q. Did you know how the Marshals were lined up at the Lyceum Building?

A. No, sir, I was never sure. I had been told how they were lined up. One—some said they were in a complete shoulder-to-shoulder of circle and then I heard that one or two, that there were two rows of them, two deep, and I never was sure exactly how they were lined up.

I never could tell exactly or I couldn't get close enough to see or didn't get close enough to see.

One time I was up pretty close to them and that was during the truce and at that time I was mostly interested in the truce and it seemed to me at that time that they weren't too, in any formation, that they were just sort of wondering around in front and sort of spasmodically standing in groups of two's and three's in the front, talking to each other, sort of, and not too well lined up or organized.

Q. Did you ever go west to the flagpole, General?

A. Yes, sir.

[fol. 926] Q. Did you testify that west of the flagpole the tear gas was heavier?

A. Well, it would have to be, Mr. Gooch, because that's where the missiles were landing, up in that area. Unless the Marshals came out, which they did a time—I believe I saw them twice.

Once they came out, I remember, to the flagpole while I was there through a five-hour period and if they fired—when they came out, they could lay down a barrage that would be heavy.

Of course, the gas was heaviest where they were actually landing and the preponderance was being fired from

the Lyceum Building and they were actually landing short of the flagpole, say anywhere from 10 steps to 50 steps short, towards the Lyceum, was where they was landing in general.

So that area was the heaviest concentration. Of course, it was all over by then and it had all—the wind put it down into the dormitory.

Q. General, do you remember a news conference in Dallas about the 27th or 28th of September, of 1962, with a newsman by the name of Murphy Martin?

A. I don't know which one you are referring to but I have knowledge of a news conference in Dallas, which hasn't been referred to here, with the press and some press reports that have been printed that are in the Fort Worth [fol. 927] press that indicated that I said there wasn't—something to the effect, there was no violence.

I think they can find this report. This may be the one you are referring to, Mr. Gooch.

Q. No, I am talking about before you went to Oxford?

A. This was before I went to Oxford? This was a release, I am talking about, on the 28th, and said that I didn't—there was no violence—I hoped there wouldn't be any violence on the campus.

Q. Well, let me see if I can recall to your recollection, and I will ask you if this question was asked you by Mr. Martin:

“If you moved into the State of Mississippi with force, what would you call this movement, General,” to which you replied, “This movement is with all patriotic Americans standing up beside Governor Ross Barnett in his cause for freedom.”

Do you remember that question being asked you and that answer given?

A. Will you read it again?

Q. “If you moved into the State of Mississippi with force, what would you call this movement, General?”

"This movement is with all patriotic Americans standing beside Governor Ross Barnett in his cause for freedom."

[fol. 928] Do you remember that question and answer?

A. I don't remember it being asked or answered but it sounds like a statement I might have made.

Q. The next question, to the same person, "How would this movement be compared insofar as a name, as to the name, 'Civil War'?"

Do you remember that question being asked you, General?

A. No, sir.

Q. To which you replied, theoretically or according to this reporter, "You are referring quite some time back in history, of course, can repeat itself. The decisions with regard to your question will all have to be made in Washington, D.C., and by the 180 million people of the nation."

Do you recall now that you were asked that question and gave that answer?

A. No, I don't recall it, sir.

Q. Would you say that you didn't make that statement?

A. No, sir, I don't remember this incident or this reporter. He doesn't—I don't recall. Would you mind telling me who he is with?

Q. According to my information, and I think I am right, he is with the Southwest Central New Agency.

A. I have no recollection of it, whether it's telephone or [fol. 929] in the house or outside or what, sir.

Q. All right. Now I believe you stated at the time you left the campus there somewhere between, and I believe you said 1:30 and 2:00 or 1:00 to 1:30, I don't remember now which—

A. Yes, sir.

Q. Do you? Do you remember which it was?

A. No, I don't. I said 1:30 or 2:00 or in the area of 1:30. I don't remember exactly. I just turned and walked off the campus.

Q. That was my recollection. Did you testify that you were followed?

A. I testified that we picked up a car, which I believe they referred to, tailing it, outside of Oxford, after we had made the turn and headed on Highway 6, we were headed towards the Mansell Tourist Court. And we noticed a tail on us.

Q. All right. Then you stopped and talked to the Highway Patrol and some students, I believe you said?

A. Right, sir.

Q. And then I believe you said that you left Leman's car, the one you were riding in there, at that place, and went on in another car, is that correct?

A. Yes, sir.

Q. Was that to try to shake the tail, as you called it? [fol. 930] A. You might say. It wasn't a question of shaking them. I was going to go back to the Mansell after I got through where I was and the idea was that if they wanted anything, I wanted witnesses with me, Mr. Gooch.

Q. All right.

A. So I called and asked some friends to come down and meet me so if they wanted to stop me and talk to me, I would have a witness.

Q. It wasn't a question of fear on your part, was it?

A. I am not scared of anybody, Mr. Gooch.

Q. That's what I thought. And also in this Leman car was a weapon, was there not?

A. Sir?

Q. In the Leman car in which you were riding there was a weapon?

A. I don't know whether there was or not.

Q. I believe you testified in your deposition that there was a weapon's case in the Leman car?

A. I don't recall that. I remember I testified in the deposition that I saw a weapon's case in the tourist court at the Mansell.

Q. Well, you testified it was in the car. Now I don't want to quibble over it. I just wanted to ask you—

A. I don't remember what time in the car. If you want to read it out of the deposition, it suits me fine.

[fol. 931] Q. All right.

A. I think we can shorten this, because I'm going to say if the weapon was in the car, I didn't know it and I can also say the weapon never went out of the automobile that evening except if it went back in the Mansell apartment, which I don't know.

Q. I didn't say it did, General.

A. Never went on the campus.

Q. I just asked you if there wasn't a weapon in the Leman car?

A. Well, this may clarify the whole thing.

Q. Well, was there?

A. I don't know.

Q. Was there a weapon's case in that car?

A. I think the weapon's case you are referring to in the deposition, Mr. Gooch, is with regard to a weapon's case I saw some time, maybe the next day, I'm not sure how it reads, but that somebody brought into the court, the tourist court where we were staying, two miles out of Oxford, I remember in the deposition I testified that I didn't know what was in the weapon's case. I didn't know what sort of gun it is, if you will recall.

It's there in the deposition.

Q. That's right. I'm just trying to see if it was in the car or not.

[fol. 932] A. I couldn't even guarantee there was a gun in it. It was one of these break-down cases that held, I remember that much in the deposition, held a weapon. It was a weapon's case.

And I never saw the weapon that was in that case. And it was one of the break-down kinds that you have to take the gun in half, if it's in there.

Q. All right. Now, General, in your pleading—I assume you have read your pleading in this case?

A. You don't want to read the deposition, sir?

Q. Yes, I do.

A. Well, let's go ahead. I don't see any point in it.

Q. Well, I don't either but we will find it now since you have asked me. I'll find it in just a minute.

The Witness: May I speak to my counsel, sir?

Mr. Gooch: Yes, sir.

The Witness: Why don't you help him, Clyde, find it?

Mr. Watts: I don't know where it is myself.

The Witness: There are 400 pages. It will help for two to look.

Mr. Watts: I will start from the back if he starts from the front.

Mr. Gooch: Page 292, sir.

By Mr. Gooch:

Q. Page 291 (reading). Did you see anything in the automobile that looked like weapons?—

[fol. 933] Mr. Watts: Might I request that you go back to Page 290, where it starts, when you asked him, did he bring any weapons to Oxford, right on the bottom of Page 290.

By Mr. Gooch:

Q. Well, I will ask you, did you take any weapons to Oxford, General?

A. No, I didn't.

Mr. Gooch: All right, does that clear that up, Clyde?

Mr. Watts: Well, that brings it all in context, Tiny, if you just start on Line 19, Page 290. That's where you started asking him about Leman bringing a weapon.

By Mr. Gooch:

Q. (Reading) Did Leman have any weapons in his automobile? And you answered, "I don't know."

Then we go on over to Page 291, "Did you inquire whether he had or not?"

And you answered, "I don't recall requiring, inquiring. "Did you see anything that looked like weapons?"

You said, "What is your question?"

Then, "Did you see anything in the automobile that looked like weapons?"

Answer, "I recall a weapon's case which I saw coming out of one of the cars, and I don't know which one it was, which one of which cars.

[fol. 934] "Your automobile, or the one Leman was driving?"

Your answer, "Either mine or Leman's."

Is that question correct?

A. That's correct. I believe you will find in there that my car didn't come until the next—or I didn't see it until—

The Court: Just a minute, please, General. Don't volunteer anything until he asks a question.

You see, your counsel on redirect may bring out other things which he thinks are important. So we can move along a lot faster if you will just answer the question, please.

The Witness: Yes, Your Honor.

By Mr. Gooch:

Q. General, did you testify in your deposition that you never saw any rioting?

Mr. Watts: Page?

Mr. Gooch: 383.

A. I may have, Mr. Gooch, to the extent that at that time, and it always has been, everybody's trying to build this thing up and I say during the period I was there and what I saw wasn't everything that was went on, on the campus, and I didn't get on the campus until about a quarter to 9:00 or 9:00 o'clock, and what I saw, if just what I saw had been seen by the press, I don't believe they could have said that, they could build it up the way they did.

[fol. 935] And I don't—I believe they overplayed it and over-built it, even what they did see—or with reference to your statement, I probably stated I didn't see any over-all rioting on the campus.

Q. I will refer you to Page 389, the question in Line 12:

“Let me ask you this further question: Since your trip to Mississippi, has there been any increased demand on your time for speeches and public appearances before organizations over the South or anywhere in Texas?”

Answer, “The demand is continuous. I keep no records on that.”

A. Yes, sir.

Q. Did you make that statement?

A. Yes, sir.

Q. Is it true?

A. It's—there is always a demand for speeches. There is always a request, in the house, for a speech somewhere, maybe three, five, ten.

[fol. 936] Q. General, have you ever made a statement to a representative of the UPI, United Press, as follows:

“Former Major General Edwin A. Walker said today the integration riot at the University of Mississippi last year in which two persons were killed were ‘like a comedy, most amusing’.”

A. No, sir, that is the most false report I have ever heard, and that report was made when I was on a speaking engagement. That report stems from Jackson, (sic) Florida, and it was a press conference and the intent of it was to spread it across the country so it would ruin our crowds as we were speaking. We had set up speeches from Florida to California, hitting a speech every night, clear across the nation, and we have a copy in our file, I believe—I am glad you identified it because I have the press release from Jackson that made that statement and if you will look at it it has got dits and dots and quotation marks and if you

will look it is the most distorted, lying statement I have ever read.

I made so—no such inference. I had talked to the press for fifteen or twenty minutes, questioning me about Mississippi, and I made a statement during a conversation that went on for some time.

This is typical of the press, and I am so glad you brought it out, Mr. Gooch, because I think it is very, very interest- [fol. 937] ing. And went clear across the country as far as they could spread it, that I laughed at the comedy of the Mississippi situation.

The Mississippi situation was an out and out tragedy, stemming right out of Washington, D. C.

And during that conversation, to answer your question further, during that press conference in which there were about fifteen people present in one of the hotels in Jackson, Florida, (sic) the UP and the AP man was sitting side by side. One of their tricks. We noted it, and we knew it before they left the conference, and they wanted to question me on Mississippi, which I was perfectly willing to tell them, as I have said all over the country, continuously, I led no charges, I never got involved in any charges in Mississippi.

And, of course, I told them that that night, that I didn't lead any charges, and they wanted to know about Mississippi, like thousands of people are dying to know what happened on Oxford that night, or on the campus that night and in Mississippi and in Oxford and the surrounding area.

And I told them that once during a five hour period, or twice, or maybe three times I had to laugh at something the students originated, or something they did.

You have got your own press releases that say this thing [fol. 938] started in zest, with these students, and that they were laughing, and certainly they were using their songs and there were things that they did that were—even one of them that had the wound, he was laughing himself. He was laughing at what was going on.

Overall, the thing was a tragedy. Of course it was.

And then they distorted, and you read this to the Jury, sir, you read what happened, the dots, dashes, quotation marks, and there is a copy in my briefcase.

And that is where that story originated, and the intent of that story and of the press was to destroy the audiences which was set up, and they knew the schedule.

That I was laughing at the tragedy in Mississippi, it is the foulest reporting that I can ever think of. I am not mad at anybody, but it is just foul reporting. It is false, it is untruthful, it is deceitful, and it's destructive.

Q. General Walker, this is not the AP, this is the United Press.

A. The two sat side by side at that press conference and when they could get a little comedy, or reference to comedy, about something the students did, they both jumped up and quit the meeting. Just like that. We saw them go out.

[fol. 939] Q. I don't believe the AP carried anything like this at all.

A. It is typical reporting. It doesn't make any difference, sir.

Q. The next one attributed to you, "I wouldn't call it a riot, just student hijinks."

Did you make that statement?

A. To who and where?

Q. The UPI at Savannah, Georgia.

A. Probably with plenty of other statements. That is out of context and out of concept.

Q. I will ask you if you made this speech in—this statement in Savannah, Georgia: "Asked if he found the two deaths at Ole Miss a comedy, Walker snapped 'one of them was a foreign newsman. What was he doing there?'"

Did you make that statement?

A. Yes, sir, and I went further, Mr. Gooch, and made the statement, "This is a foreigner that should be protected, that the administration has all of the responsibility, within the hands of the judiciary, to find out why they haven't found out anybody that—and they should. This is a key

responsibility, and I am convinced that it is very important, that the true story of Mississippi, which he had on tape and had just come from Auburn, Georgia, with in his [fol. 940] possession, why didn't somebody— why—do they want him to go back to Europe with the true story of Mississippi? I can assure you there is much objection to getting the true story of Mississippi in Europe, of what happened on the Oxford campus.

Why doesn't somebody find out that whole statement you read is out of context because I explained that the whole judiciary has the capability to—it is their responsibility to find out. Now, I can't say that they can.

But this is a reporter—a reporter killed.

Q. Do you know Mr. Kuettner of the UPI?

A. Do I know him?

Q. Yes, sir.

A. Where from?

Q. Atlanta.

A. Kuettner?

Q. Kuettner.

A. Kuettner, yes, we have Alfred Kuettner, K-u-e-t-t-n-e-r (spelling).

Q. Yes, sir.

A. Yes, sir, we met him over there and we took the—there has been a deposition taken over there in that office, of several people.

Q. I quote from a report of his, this is March 8, 1963, "Former Major General Edwin A. Walker yesterday [fol. 941] charged that newsmen helped engineer the violence which erupted at the University of Mississippi the night Negro James Meredith entered the school."

Did you make that charge to Mr. Kuettner?

A. As far as stories are concerned? You mean during this deposition?

Q. Yes, sir.

A. Is this in the deposition?

Q. No, no, it is not in the deposition.

A. Is this a news release?

Q. Yes, sir, UPI news release by Mr. Kuettner.

A. What date?

Q. March 8th, 1963.

A. May I ask my counsel if that date corresponds with anytime I—

Mr. Watts: I don't think he understands the question. Tell him when and where.

Mr. Address: Re-read the question, Mr. Gooch.

By Mr. Gooch:

Q. According to my information, you made this in a form of a news release in Atlanta on March 8, 1963. I don't know whether you were there or not. I am asking you.

A. March 8, 1963, in Atlanta? March 8th? February 27th, '63?

We left Miami February 27th, Jackson about that thing [fol. 942] we have been referring to, and, right, we were in Atlanta. It would have been about March 8th, because we landed in California. That is the trip. It is already identified, I guess. I was in Atlanta on or about that time.

Q. Further, "But the Army veteran who commanded Federal troops during the Little Rock integration crisis in 1957 denied students were guilty of rioting."

Did you make that statement to Mr. Kuettner?

A. I may have, from what I saw, but that is not necessarily in context, because I made many other statements, and I would like to mention that that statement previously you asked me if I made, doesn't include everything I said.

Will you read the previous one?

Q. That is all there is to this one.

A. No, the one you read just before the last one.

Q. "Asked if he found the two deaths at Ole Miss a comedy, Walker snapped 'one of them was a foreign newsman. What was he doing there?'"

A. I believe we discussed that one. The next one?

It is out of context, the one you just read.

Q. "The students had a lot of laughs, plenty of fun on the campus, Walker told the news conference. I wouldn't [fol. 943] call it a riot, just student high spirits."

A. I said that, and that is out of context. That doesn't include the whole statement.

Q. Back to the Kuettner one on March 8, 1964, in Atlanta.

Mr. Address: '63.

By Mr. Gooch:

Q. '63, excuse me. "Walker said they were just playful," talking about the students on the campus.

A. I said that. That is out of context. It is referring to certain specific incidents, like this other thing where they—where I laughed at something. It was referring to a particular incident on the campus.

Q. All right. Now, General, I don't know whether you have had a chance to read the pleadings that your counsel has filed in this case, or have you?

A. Yes, I have.

Q. Referring to page 8, you stated that the Associated Press showed malice in failing to report that on November 21st, 1962, that the AP placed emphasis on a Government witness who testified, and failed to report that the Court-appointed psychiatrist, Dr. Robert L. Stubblefield, had reported that Plaintiff was currently functioning under a superior level of intelligence.

Now, have you since determined that the Associated [fol. 944] Press did carry that story and made a report as to what Dr. Stubblefield said about you?

A. I haven't determined there was a wide national coverage of that statement like there was that put me in Springfield, on the front pages of all the papers in the country.

Q. Have you determined that the AP story wherein you, in Dr. Stubblefield's report, was given—was carried in the Fort Worth Star Telegram in Fort Worth, Texas?

A. I would have to refresh my memory, whether I am or am not. I believe it can be done.

Q. Sure can. You are alleging here that they didn't put out the report, and I am saying to you that the very thing you complain of was published in a news release that was carried in the Fort Worth Star Telegram on the evening of November 22, 1962.

And I hand you the reports from the files of the Star Telegram. I believe you have a copy of this, Mr. Watts, if I am not mistaken.

Mr. Watts: Let's see it. I don't have it with me.

Mr. Gooch: This is the one you saw down there.

Mr. Watts: The article I saw on the 22nd?

Mr. Gooch: Right.

Mr. Watts: No, you said the 21st.

[fol. 945] Mr. Gooch: No, I said the 22nd. I read it right off of it. If I said the 21st, I meant the 22nd.

Mr. Watts: The 22nd; the following day.

By Mr. Gooch:

Q. I refer you to the report that's from the Associated Press that was carried in the Star Telegram under date, evening, November 22, 1962. Will you read with me, "Stubblefield's report said Walker is 'functioning currently at a superior level of intelligence.'"

A. This is at Oxford, Mississippi. It's an Oxford, Mississippi, release as of November 22nd by AP; is that correct?

Q. Yes, sir, and published in the Star Telegram.

Mr. Watts: If Your Honor please, for the sake of the record, I would like to inquire which wire that came on, whether it came on the A or B wire, or the local wire?

Mr. Gooch: I don't know. It just says AP and we had a stipulation.

Mr. Watts: I would object to this, then, as hearsay. Because this is the repetition of what was in the Fort Worth press.

Mr. Gooch: It is not the Fort Worth Press.

Mr. Watts: Fort Worth Star Telegram.

The Court: Overruled.

[fol. 946] Mr. Watts: I see.

Mr. Andress: I would like to make a further objection there. This is a story that came out in the evening paper and unless it is shown that the original story omitting the pictures was in the evening paper, the morning paper, that would make a lot of difference, because, as I understand, the circulation of the evening paper is considerably less than the morning paper and don't go out as far, unless it is corrected it wouldn't catch up. We think it ought to be shown, the identity of this story and the edition it appeared in, that it is the same as the original story.

The Court: That objection is overruled.

Mr. Watts: Might I approach the Bench?

The Court: Yes, sir.

*(Conference at the Bench.)

By Mr. Gooch:

Q. In connection with the pleadings, if the Court please, when the objection was made, the pleadings state we were guilty of malice because we didn't report it. This is the paper that published the other report, and it is the same paper.

Mr. Watts: I don't believe I heard that?

Mr. Gooch: Yes, you did. We offer in evidence as Defendant's exhibit 17 the clipping from the Fort Worth [fol. 947] Press—

The Court: Star Telegram.

Mr. Gooch: Fort Worth Star Telegram of November 22, 1962, showing the—among other things, the quoted portion of the substance of the question.

These are the original records of the Star Telegram, and I would like to substitute a photostatic copy, if I may.

The Court: Yes, sir, you may.

Mr. Gooch, the witness has finished reading the article.

Mr. Gooch: I beg your pardon?

The Court: I say the witness has finished with the article.

Mr. Gooch: Oh, excuse me just one second. Another one here I wanted to find.

General Walker, you have alleged on page 8 of your petition, on the ground—on evidence showing malice, "In reporting the incident involved in Plaintiff's arrest and commitment the Defendant deliberately refrained from fairly and impartially reporting the true facts that he had been transferred from the State of Mississippi where he had been committed by a judicial order, and in the State of Mississippi without a Court order."

[fol. 948] This will be Defendant's Exhibit 18.

(Defendant's Exhibits 17 and 18 marked by the Court Reporter.)

By Mr. Gooch:

Q. I hand you what has been marked as Defendant's Exhibit 18, which is an Associated Press story out of Springfield, Missouri, dated October 2, 1962, Associated Press, and published in the Star Telegram on October 3, 1962, in the morning edition, relative to the portion read from your pleadings.

I believe you will find this statement here.

A. It may take a long time, sir.

Mr. Gooch: Well, we can find it. Down on the second portion of it, "Watts—" this is Clyde Watts. Is that your lawyer, Clyde Watts?

The Witness: Yes, sir.

By Mr. Gooch:

Q. "Watts said he learned that Walker was transferred from Oxford to the Springfield Medical Center on tele-

graphed orders from James V. Bennett, director of Bureau of Prisons."

Did you see that?

A. Right, sir. The date of this is October 3rd, and it is a Springfield, Missouri release, right?

Q. By the Associated Press.

A. AP, right.

Q. All right.

[fol. 949] Mr. Gooch: We offer that in evidence as having been published by—

The Witness: Can we identify whether it was the evening or morning edition, and whether—

The Court: He already has.

The Witness: That is morning. And what page this is on?

Mr. Gooch: I don't know what page it is on.

The Witness: I think that is very important.

The Court: Pardon me just a minute, General. Orderly procedure requires that Mr. Gooch ask you questions and you answer them. Then if your counsel wants to bring out something else on redirect, then he will ask it.

The Witness: Yes, sir.

By Mr. Gooch:

Q. Further up in this same article, read along with me, General. This is on Defendant's Exhibit 18.

EXCERPT FROM DEFENDANT'S EXHIBIT 18

"Watts, reading from a full page statement, told reporters he had talked to Judge Clayton at Oxford by telephone and was informed the order committing Walker for psychiatric examination was issued on the basis of testimony by Dr. Charles E. Smith, a Bureau of Prisons psychiatrist. Watts quoted Judge Clayton as saying Dr. Smith had not seen Walker."

[fol. 950] Did I read that correctly?

A. Yes, sir.

Mr. Gooch: We offer Exhibit 18 in evidence, if the Court please.

The Court: It is admitted.

A. That is a continuation from page 1?

By Mr. Gooch:

Q. Yes, sir. I believe that does establish that that was on page 1.

A. Not the portion you were reading, sir.

Q. I said it was a continuation from page 1.

A. The portion you were reading was not on page 1?

Q. No, it was a continuation.

The Court: Let's don't get into an argument.

[fol. 951] Q. You also complain that the Associated Press failed to report a motion—it's in Paragraph III of your—on Page 8 of your Petition, that Defendant failed to further report the true facts, that on October 16, 1962, Plaintiff filed in the United States District Court at Oxford, Mississippi, a motion to strike the entire proceedings by which Plaintiff was committed to the Federal Mental Hospital, upon the ground that such commitment, in violation of the right to make bail and without counsel, notice of hearing, violated the constitutional rights of Plaintiff.

That is correct from the Pleading, is it not, General Walker?

A. Is that what you are reading from, sir?

Q. Yes, sir.

Mr. Watts: Yes, it is.

A. Yes, sir, that's correct.

Mr. Gooch: I will ask the court reporter to mark this as Exhibit 19.

(Defendant's Exhibit 19, was marked for identification.)

Mr. Gooch: And I hand you Defendant's Exhibit 19. I believe you have a copy of that, don't you, Clyde?

Mr. Watts: I know what it is. Yes, and may I have one?

Mr. Gooch: No, that's mine but—

[fol. 952] Mr. Watts: Well, I know what it is.

By Mr. Gooch:

Q. Exhibit 19 was a news release from Oxford, Mississippi, dated October 16, 1962, and published in the morning edition of the Fort Worth Star Telegram, reading as follows, and read with me, General.

DEFENDANT'S EXHIBIT 19

"Attorneys for Former Maj. Gen. Edwin A. Walker asked a federal court Tuesday to reverse its order that he undergo a psychiatric examination.

"U. S. District Judge Claude Clayton had directed that Walker, facing four federal charges including insurrection for his role in desegregation riots here September 30, be examined to see if he is mentally competent to stand trial.

"In a motion filed here Tuesday, Walker's attorneys charged that the court's order 'violates the constitution rights' of Walker in four ways.

"1. 'The right to make bail and be released thereon.

"2. 'The right to be represented by counsel at every stage of the proceedings against him.

"3. 'The right to notice of proceedings against him, which is a necessary element of due process of law.

"4. 'The right to be present in person at the hearing wherein defendant's mental sanity and mental competency is questioned.'"

A. Yes, sir.

Mr. Gooch: We offer in evidence Exhibit 19, and ask [fol. 953] permission to substitute a photostatic copy.

The Court: Defendant's 19 is admitted and you are granted leave to substitute a photostat for the original.

Mr. Gooch: Will you give us just about five minutes? That's all at this time, Your Honor.

Redirect examination.

By Mr. Watts:

Q. General Walker, there have been read to you a large number of court orders, proclamations, injunctions and things of that kind.

Did those legal instruments come to your attention at the time they were issued by the respective courts?

A. No, they didn't.

Q. Mr. Gooch asked you, as I remember the question, as to whether you did not stand beside Governor Barnett in defying court orders.

And I will ask you to tell the jury if you at any time made any defiance of court orders or advocating any defiance of orders of the court, of courts of the United States, and to whom you looked for handling of the legal problem?

A. I did not. I looked to the Governor and the State of Mississippi, which he is and represents, and his Attorney [fol. 954] General and surrounded by the best lawyers in the country, to include the President of the Bar Association, ex-president of the National Bar Association, Satterfield.

I was, depended on their carrying the procedure, legally, and constitutionally, under the requirements of Mississippi.

Q. Now, Mr. Gooch also asked you about your motivation and determination to speak out in protest against certain things at the time you resigned your commission as a Major General in the United States Army.

Would you tell the Court and jury, please, sir, at that time what was the exact condition that you were objecting to.

Mr. Gooch: If the Court please, I object to that as irrelevant and immaterial to any issue in this case until it has something to do with this case.

Mr. Watts: Mr. Gooch went into it. I hadn't intended to go into it.

The Court: I overrule him.

Mr. Gooch: Note our exception.

By Mr. Watts:

Q. Go ahead, General, do you understand the question now?

A. Yes, sir.

Q. Well, tell the jury now very briefly—don't—try not to go afield, and stay right on target here, of what Mr. [fol. 955] Gooch asked you.

A. I was, had to do in Little Rock what I felt was entirely wrong, under the military requirements, in following the directives and orders from the Administration. My orders came through military channels.

I thought it was wrong at the time. I even called home to Center Point and had my mother on the line and asked her if—

Mr. Watts: Don't—

Mr. Gooch: We object to that as hearsay.

Mr. Watts: Don't go into conversations with your mother. Go ahead.

By Mr. Watts:

Q. Did you then try to resign at Little Rock?

A. I definitely turned in my resignation before, resignation from the military service, which I have never seen in print, incidentally—

Q. Well, now don't get into the print. You did turn it in?

A. I turned in my resignation before I left Little Rock, Arkansas.

Q. All right, sir. Now in Germany, you were asked about your Pro-Blue Program—

Mr. Gooch: No, I didn't—

Mr. Watts: He testified from the witness stand that was [fol. 956] his—

Mr. Gooch: No, that was your question.

Mr. Watts: Oh, all right, sir. Perhaps I asked you.

By Mr. Watts:

Q. Anyhow, I remember the Pro-Blue Program coming up. Did the Army, did the Department of Army's reaction to your Pro-Blue Program have anything to do with your final resignation of your commission as a United States—

A. Yes, it did. The Army position, it itself, the military side, in my opinion, was terrifically, and still is, handicapped in accepting a Pro-Blue Program.

My program was accepted by the higher commander, one star more than I was, within two or three weeks after it was written, completely and—

Q. With whom then in the Department of Army did you have your conflict, with the soldiers or civilians?

A. My conflict was not with the military, basically. It was not that I saw these other people but I knew where the problem was and who was giving all the instructions with regard to me in the military service.

Q. Were they soldiers or civilians?

A. Civilians in the Defense Department.

Mr. Gooch: If the Court please, we say that's hearsay. [fol. 957] The Court: It would be. That would be a conclusion, I think, unless he knows.

Mr. Watts: He talked to the one—let me ask this:

By Mr. Watts:

Q. Did you receive a call from one Arthur Sylvester?

A. Yes, I did, in Augsburg, Germany.

Q. Well, what was Arthur Sylvester's position in the Department of Defense?

A. He was head of public—

Mr. Gooch: If the Court please—

The Court: Just a minute.

Mr. Watts: Hold it.

Mr. Gooch: Suppose he was. Anything that Mr. Sylvester might say would be hearsay, so far as we are concerned.

Mr. Watts: I'm not asking him what Sylvester said.

The Court: All right. Overruled.

Mr. Gooch: Note our exception.

By Mr. Watts:

Q. Now then in simple language, what was your disagreement with the civilians in the Pentagon that caused you to go to the extent of resigning your commission as a Major General of the United States Army, very simply, tell the Court and jury what it was.

A. I instituted a Pro-Blue Program which taught the [fol. 958] soldiers and the officers patriotism and their knowledge about citizenship and their responsibilities to citizenship, their understanding of discipline and their understanding of morality and morale and their relationship with church and their necessity to accept the Lord and the necessity to know their enemies, which they have to understand his psychology, to know this sort of situation when you are facing an enemy only about 150 miles, with 13—eleven thousand troops, and about ten thousand people in their families sitting around Augsburg and Munich where the Division, U S Division was that I commanded, was stationed.

And my program was to keep and to extend the knowledge of the enemy, which was definitely what we referred to as the Communist enemy, from the East Zone, and my program was to give them a complete understanding so at any time war should break out, what we are there for, either there or anywhere else they might be sent, under those conditions we had plans in our Headquarters to leave

immediately for 17 different countries through Central and the Middle East and Africa, in that general area, and the soldiers had to be prepared, knowledgeable about what sort of an enemy that we have got and what they would be confronting—the Division was alerted even at one time for a portion of the Division had to stand on the airplane to go to Katanga.

Q. Now did these civilian personnel restrict your program to so train your troops?

Mr. Gooch: Object to that as being a conclusion.

The Witness: They restricted this program—

Mr. Watts: Just one moment for an objection.

The Court: Overruled.

Mr. Gooch: Exception.

By Mr. Watts:

Q. Go ahead and tell the jury what happened.

A. They restricted this program continuously. They restricted us when I was District, head of Arkansas at Little Rock, they have—they continuously restricted it.

Now I am not in their position. If they want this sort of program, that's the program they can have.

But I don't intend to command American troops, and this is why I resigned, I don't intend to command American troops without the proper instruction when they go to Vietnam or anywhere else, that they are not knowledgeable about the Communists and the way they operate under cover and cold war and prisoner of war cages in Korea, and the soldiers, this is not fair to the soldiers, in my mind, across this nation.

And if they want this sort of program, they can have it. And I made up my mind I was—I got orders from the Military Service in October, I have written orders in my file that directed me to a higher training job in the Pacific. [fol. 960] The military has—basically out of this, they recognized my training ability and capability, you might say, and the Division's capability and they gave me orders

to go to the top training operations and supervision job of the entire Army in the Pacific. That was in October.

Q. Would that have trained the personnel that ultimately ended up in Vietnam and Southeast Asia?

A. That, it exactly did. It supervises, it runs the plans and programs, it operates and supervises what's going on in Laos and at that time—

Q. Now General—

A. —Vietnam and the entire South Pacific.

Q. Did you make a comment about the so-called, and to shorten this, "No-win policy"?

A. Yes, I have continuously made such a comment.

Q. And were you apprehensive about the future of your country under that policy as it existed?

A. I certainly am, with soldiers—I have been on three continents, looking back at the United States and then to look back and see soldiers would mention to me, "I'm from Florida," and those people are just 90 miles from Florida.

Q. I noticed a comment in the morning press that you had testified that you had approved people going armed to Mississippi. Did you hear any such question?

[fol. 961] A. I should never have made that answer. I didn't hear the question properly. I recommended that nobody, or didn't make any—told nobody to go armed to Mississippi.

I made no order to tell anybody or told nobody to go armed to Mississippi.

Q. Now then when you mounted that Confederate statue to make your talk to these students, what was your estimate and evaluation of the existent situation?

A. The existent situation was very, very tragic. It was serious. It was a critical situation.

I didn't know definitely, as has been referred to, whether anybody was killed or not.

When I got on the campus, the reports that the girl was hit by a tear gas and she was dead, a tear gas missile, that would have been around 8:00 o'clock or half hour or hour, half hour or so, before I got there.

That highway patrolmen had been killed, and these were the two that were being referred to at the time.

The tragedy was very obvious about the situation.

Q. That's enough of that. When you got to the point and saw the highway patrolmen leaving and saw the reaction of the crowd, what was your procedure then in speaking to the crowd in view of what came up following the highway patrolmen's leaving and why?

A. Since the highway patrol were leaving and they were [fol. 962] very upset and getting more excited over the Barnett's departure, as I have explained, the newspapers around, it became obvious, I decided to talk to them and my idea was just to make myself enough acceptable, which you have to do in mob activities—I have had continuous training in the method, you might say, off and on through the services, of how to quell mobs and how to quell riots and you have got to know exactly what position they are in and what their state of excitement, what degree they are in, what sort of things they are doing.

Of course, it was a most unusual situation to find, and difficult one, very difficult because we are taught never to use—not only don't do it but you do not use tear gas, you never fire a salvo of tear gas—this is in mob operations—you never fire a salvo of tear gas at, a flat projectory at people. It's not to be used this way at all.

You are told not to do it. And if they were going to use tear gas, if they had decided they had come to the necessity of using tear gas here, they are only antagonizing the students and hitting people with tear gas fired directly.

If they were going to use tear gas, you want to get a tear gas into a crowd, you would rather if you could just get it there without a missile. That's your objective of tear gas. You drop it over on a downwind side and let them smell it first.

[fol. 963] You certainly would have set off, before you even started, you would have set off just a sample round off near somebody. It is not a missile.

It is antagonistic and to continuously fire it is very antagonistic.

Q: From your training and experience, what is the reasonably expected result of firing a massive volume, salvo of tear gas with a flat projectory at point-blank range?

A: Just as what happened here, it made a fantastically tragic situation, it was brought out.

Now there is another angle of that that becomes perfectly obvious, which I can understand very clearly, all law is gone in the area. I thought, of course, the Sheriffs would do what they could, and I feel that they did, to stop violence where they could stop it, but the law is all behind a range of—a ring of Marshals that nobody can get to—as you evaluate the situation and what I was told. And you found that it's all in the Lyceum Building. If a student wants to discuss what's going on with somebody or get some advice or nobody comes out to talk to him—

Now in Little Rock I just appeared out in the crowd. Whenever I went to the high school, two or three times in the morning, say, or two or three times in the afternoon, why, I got stopped in the jeep or sedan and appeared in the crowd and talked to some of the people in the streets [fol. 964] and talked around. You couldn't find here—I couldn't find—saw nobody.

And the students seemed to indicate there was nobody they could talk to.

Q: Now then the question has been asked you on cross examination if you didn't make statements that that whole riot was just a joke?

I direct your attention to the Plaintiff's Exhibit 7.

Mr. Watts: Give this one the last number, 7-B, which I think we are in agreement is an Associated Press release.

(Plaintiff's Exhibit No. 7-B, was marked for identification.)

Mr. Cravens: Let's see what it is.

Mr. Watts: And direct your attention to this language in Exhibit 7: "The rioting started shortly after sundown—

The Court: Pardon me just a minute, Mr. Watts. Now you have never actually offered that.

Mr. Watts: Yes, sir, I at this time offer in evidence the Plaintiff's Exhibit 7-B.

The Court: It's admitted.

Mr. Watts: And I would like to, and I hope I don't forget it, offer in evidence chronologically all of these news [fol. 965] releases which I'll—

The Court: Let's wait until we reach each one.

Mr. Watts: Yes, sir.

PLAINTIFF'S EXHIBIT 7-B

Reading to the jury, this AP news release, Exhibit 7-B:

"The rioting started shortly after sundown when about 2,500—jeering and joking—gathered at the Administration Building where the Marshals held their tight guard.

"In the early stages, much of the shouting at the Marshals sounded more like just than maliciousness.

"From time to time, even the grim-faced Marshals would break into a slight grin.

"But as the evening wore on the talk got rougher and the students started rampaging. They tore away a photographer's camera and, smashed it. They smashed the windows in a car, sending a man and woman fleeing.

"Then they moved against one of the army trucks standing by with the Marshals. They got the cap off the auxiliary gasoline tank and threw a flaming piece of newspaper at the fumes, trying to set fire to the truck."

By Mr. Watts:

Q. Now then did your understanding coincide with that AP news release as to the joking attitude of the students at the start of the riot?

[fol. 966] A. That was my understanding, yes, sir.

Q. Now what was the full comment you gave to this news reporter in Savannah, I believe, perhaps Jacksonville, Florida, that was reported, as Mr. Gooch read to you?

Give the jury the benefit of the full statement you made to the news, to the press.

A. We were discussing the situation on the campus, sort of as in answer to their questions and I was giving them an idea of what was happening there for news and I referred to, during the conversation, I said something about zest and that something, that some student did something that was funny and I laughed at a remark, or something he said, referring to the stories I had heard about the campus, and the zest with which this thing started and their funny remarks back and forth to the Marshals and then their school song and their cheers, and so forth, and the excited manner which one student would come out and tell about what he saw and—

Q. And was that the full text—

A. And from time to time there was joking about what they were doing.

Q. And was that the full text of the statement that caused the news release that you were shown by Mr. Gooch that said, "Walker considered the riot a joke," was that the full text of the statement you told?

[fol. 967] A. This certainly is not the full text of the statement. This is out of context.

[fol. 968] Q. Did you ever at any time tell anyone that you considered that Mississippi riot a joke?

A. No, sir, I said many times I considered it very serious and tragic.

Q. Was it your understanding that the riot did start off in a joking manner?

A. It certainly did.

Q. Except for that massive delivery of tear gas, how do you think it would have ended up?

A. Well—

Mr. Gooch: I object to that.

Mr. Watts: Yes, sir. Yes, sir. I think that is probably—

Mr. Gooch: I object.

The Court: All right.

By Mr. Watts:

Q. Now, it was pointed out to you yesterday that proclamation for the use of Military forces was entered by the President on September 30, 1962. From your subsequent knowledge are you familiar with the type of units and the nature and extent of the Military forces that was committed in Mississippi?

A. Yes, sir, I am, with regard to terms and units to a certain extent, and also that this is an order for a Military operation.

Q. To shorten this, did you understand there were approximately 26,000 troops committed to Mississippi?

A. Between twenty-three and twenty-six thousand troops, correct.

Q. And were you in on the timing and the logistical preparation necessary for the commitment of 1,000 troops to Little Rock?

A. Yes, I was.

Q. How long did that take?

A. Well, I did some planning on my own in the Little Rock headquarters because I expected that something might happen, and I was hoping continuously they would use Marshals. And certainly it was three or four days before the Central High School incident occurred that I was in where planning was going on, in the Chief of Staff of the Army's office in Washington, D. C.

Q. How long would it be, in your opinion, the required time to make the necessary logistical planning for the staging areas, the transportation, the alerting of troops, to move that 23,000 troops from their respective bases into the area of Oxford, Mississippi?

A. From the time they got there, going backward, those troops would have had to have been alerted and logistic preparations, staging areas, and so forth, at least a week to two weeks before, somewhere in that area. Somebody was planning on this operation, in the Military, to have

[fol. 970] been accomplished, when the troops went into Oxford.

Q. You have stated that you oppose the use of the Military in Mississippi.

A. I certainly do.

Q. Why, then, would you then have told the students to avoid violence in your speech from the monument?

A. Because any violence at that time would have played right into the hands of the Military and such orders coming from the Defense Department to use masses of troops, which were never called for in Mississippi for what was happening. This was a great show of force, intended to be. It was intended—

Mr. Gooch: We object to that.

By Mr. Watts:

Q. Just a minute, you can't testify what it was intended to be.

Mr. Gooch: Move the answer be stricken.

The Court: Sustained.

Mr. Watts: Yes, sir, that's right.

A. Any violence—

By Mr. Watts:

Q. Just a minute now.

A. Any violence—

Q. Just a minute. Did you have any other motive behind that, aside from that, in telling these people at the monument to avoid violence, and violence was not the answer? Yes or no?

[fol. 971] A. Yes, I did.

Q. All right. Tell us about it.

A. If there was no violence there, or nothing that was worse than this fantastic force which was building up in the area, why it made it look ridiculous. It was already looking ridiculous, absolutely ridiculous, and foolish, to

put one man on a campus. You could do it with any fifty men on a school day when the students were all in school. It was absolutely getting ridiculous. Well, anything that affected it—

Q. What was your concept of the operation that brought that man on there about 5:00 o'clock or 4:00 o'clock on Sunday afternoon as these students were returning from a football game in Jackson, Mississippi, under the circumstances as you found them to be? And hold up, don't answer until they object.

Mr. Gooch: I object to that as wholly irrelevant, calls for an opinion and conclusion.

The Court: It is far too broad. He wasn't there at the time.

Mr. Watts: All right. All right, shall I ask him some more questions?

The Court: No, it is close to noon. Ladies and Gentlemen, we will recess until 2:00 o'clock. Keep your seats in the audience until after the Jury leaves the Courtroom.

[fol. 972] - (Whereupon, the Court was recessed at this point until 2:00 o'clock of the same day.)

[fol. 973]

Afternoon Session

2:00 P. M.

By Mr. Watts:

Q. General Walker, when you left Jackson, Mississippi, on Saturday the 29th, did you know Mr. Meredith would be brought on the University campus the following night?

A. No, I didn't. I certainly didn't.

Q. When did you first learn it?

A. I think I learned it at the press conference. If not then, at the President's speech, or the entering of the campus. And I believe it was in the President's speech. I certainly did not expect him to be brought on the campus on Sunday. It is—I knew that the students were all away and that Sunday bible—deep bible state, seemed like the

most inopportune time to slip somebody on the campus, while the students were off the campus.

Q. Now, would you take your pointer, please, and for the benefit of the Jury point out as nearly as you can on the chart an area that represents the outer limits of any part you reached that evening, and by "that evening" I mean the evening of September 30, 1962.

A. The area I was in and never of is around this area (indicating) and in the direction of the flagpole, and here to the flagpole, and one time I went right to about this [fol. 974] far here, during the truce, and never further, except for that one time—further than here (indicating), and I was in this area right here.

I never got past this point to the left, and I never—I came right this way and I was to this curb here, and right here, and across here, and I spent, oh, probably an hour and a half during the whole evening at different times under a fir tree, by a fir tree, or on the west side of it, right here (indicating) and close the circle right here.

I was never out of that area.

Q. You may take your seat. During that evening, did you ever get out of a walk?

A. I never did, no, sir.

Q. During that evening, did you ever participate in any of the activities of the crowd toward the Marshals with respect to either throwing things at them, or encouraging such actions to be done?

A. I did not.

Mr. Watts: That is all.

Mr. Gooch: Nothing further.

Mr. Watts: Oh, yes, one other thing.

By Mr. Watts:

Q. As I recollect your testimony, you saw that manifesto committing troops on the 30th of September, 1962, or did not? Did you or did you not?

[fol. 975] A. I did not.

Q. When did you first have knowledge that troops were being planned for the area, planned by the Government to be committed in this area?

A. Certainly it was by the 28th, because there were press releases on it, and from my previous experience I had knowledge of it.

Mr. Gooch: If the Court please, the press reports would be the best evidence.

By Mr. Watts:

Q. Would you have such a press report?

A. Yes, sir, I have a press report here. I believe it is the front page of the Star Telegram. May not be the front page; the picture page. Friday, September 28th.

Q. Would you deliver that to counsel; please, sir?

A. Yes.

Mr. Address: We would like this marked as an Exhibit.

The Court: Let counsel look at it.

Mr. Gooch: Go ahead.

Mr. Address: Will you mark it with the next exhibit number?

(Said document marked Plaintiff's Exhibit 12 by the Reporter.)

Mr. Address: We offer in evidence Plaintiff's Exhibit [fol. 976] 12, a portion of the front page of the Fort Worth Star Telegram for Friday, September 28, 1962.

The Court: It is admitted.

Mr. Gooch: No objection.

By Mr. Watts:

Q. Prior to the time you went to Mississippi, did you have any other notice or reason to believe troops were about to be committed in Mississippi?

A. I had reason to believe that they could have been or was going to be committed, based on my experience

and different indications of what was being done, and what was in the press.

Q. Without saying any hearsay, was—what anybody told you, could you outline what the source of that information was, or was it from something someone told you?

A. I remember a telephone call from the Tennessee area.

Q. You can't tell about calls from the Tennessee area.

Mr. Watts: I believe that is all.

Recross examination.

By Mr. Gooch:

Q. General Walker, as a Military man you know that troops can be called only on the order of the President of the United States, do you not?

A. Yes, sir.

[fol. 977] Mr. Gooch: That is all.

Mr. Watts: Thank you, sir.

The Court: Step down.

Mr. Address: We call Dr. Beard.

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[fol. 991] Mr. Address: Now, Your Honor, we would like at this time to ask the Court to permit this witness to testify upon the basis that after the morning recess, according [fol. 992] to my notes, of the testimony, it was almost entirely concerned with the stories in the Star Telegram and the mitigating matters in connection with whether or not there was any malice involved.

The Court: I have already ruled, Mr. Address.

Mr. Address: Yes.

The Court: Bring the jury in, please, sir.

Mr. Watts: Call Ed Jackson, please.

If the Court please, I forgot to ask, may that previous witness be excused?

The Court: Yes.

(Jury returns to the courtroom.)

EDWIN LEON JACKSON, called as a witness by the Plaintiff, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Watts:

Q. State your name, please.

A. Edwin Leon Jackson.

Q. Was that Edwin?

A. Yes, sir.

Q. Where do you live?

A. Houston, Texas.

Q. How old are you?

A. I will be 21 in August.

[fol. 993] Q. Who are your parents?

A. Richard L. and Lorene Roach Jackson.

Q. How long have you lived in Houston?

A. Oh, on and off, nearly 18 years.

Q. You are then a resident of Texas?

A. Yes, sir.

Q. What is your father's business?

A. He puts in air conditioning, installs air conditioning.

Q. Where do you go to school or to college?

A. The University of Mississippi.

Q. How long have you been there?

A. I have attended two years. I attended one year at Abilene Christian.

Q. When did you first enroll in Ole Miss?

A. September, 1962.

Q. What school were you in?

A. Liberal arts.

Q. Were you on campus on the night of September the 30th, 1962?

A. Yes, sir.

Q. What dormitory did you live in then?

A. Long Street A.

Q. Had you been in school over the weekend or did you go anywhere?

[fol. 994] A. Ole Miss played Kentucky in Jackson, Mississippi, over the weekend and I am in the band. We went to that and we got back about 1:00 o'clock Sunday morning, in the morning, that night.

Q. Where did you go? To your dormitory?

A. Yes, sir, I slept all day.

Q. And about what time did you get up?

A. Around 2:00 in the afternoon.

Q. Were you anywhere on the campus when the Marshals first appeared?

A. Yes, sir, in my dorm.

Q. Did you go out into the area of the circle where the Marshals were?

A. Yes, I arrived there—as soon as the first truck of Marshals came; the word spread out like, just like electricity, I guess, all through the campus, you know, and I was there—I ran down to see what was happening and I was there about the time the second or third truckload came in of Marshals.

Q. Would you tell the jury now in your own words, what occurred and what you saw from the time this first group of Marshals came in up until after tear gas was fired.

A. Yes, sir. Well, around 4:00 o'clock that afternoon, the Marshals started arriving—at least it seems like 4:00 o'clock, as I remember.

[fol. 995] And like I say, word spread when the first truckload came in because we weren't expecting anything on Sunday; I mean there was a tense atmosphere, I would imagine, from all that had been happening but when they came in, I ran down there and a crowd started gathering and in an hour or so, there were several hundred students, two or three hundred students, I imagine, maybe even more, came down to see the Marshals come in.

And some of the students would put Confederate flags on their car and drive through the crowd and everybody was

yelling, I mean—and they were cheering (jeering) calling the Marshals names and they passed out little bitty stickers saying, "Ross was right," people were wearing on their lapels.

And some of them were telling the Marshals they ought to go to Cuba and other places (laughter) and, well, there was more—

At first, I mean, it was kind of a premonition of what was to come by what they were wearing because, I mean, we weren't expecting anything and there they were, with helmets and billy clubs and pistols and tear gas cannisters on their chests, so we didn't know what was coming off but we were still yelling at them and calling them names and just yelling, just, I don't know, it was—

Q. Were any highway patrolmen around there?

[fol. 996] A. Yes, sir.

Q. Tell the jury what those patrolmen were doing.

A. Well, the patrolmen, highway patrolmen, as they came, and they were in the street in front of the Lyceum in the middle, facing the students, between the students there and the Marshals on the Lyceum Building, circling the Lyceum.

The State Police were in the center of the road facing the students.

Q. Did you have any rough idea how many Marshals there were there?

A. Oh, it seemed like around 400, at least, because the Lyceum was completely surrounded with them; I mean it seemed like they kept, more trucks and more trucks and everything, truck and trucks of Marshals, you know, army trucks, those convoy trucks.

And there must have been at least 400 to have circled the Lyceum, standing up just arm to arm.

Q. Now were the highway patrolmen around the Marshals at first or did they move in later or between the Marshals and the students?

A. Well, at first, the highway—I mean around 5:00 o'clock, it seemed like—

Q. I couldn't hear. Say it again, please.

A. Around 5:00 o'clock, I believe, the State Police started [fol. 997] coming in about, more and more of them. I mean there had been State Police around the University in and on the campus all that September.

But they started really arriving and they formed a—they just stationed themselves in the middle of the street, facing the students, their backs to the Marshals, in the middle of the street.

Q. Now do you see a pointer there in front of you, a little wooden pointer?

A. Yes, sir.

Q. Would you take that and step down there to the chart, and the top of it is north, University Boulevard goes by your chin there and proceeds westward.

Do you see that circle there?

A. Yes, sir.

Q. What's on the east end of the circle?

A. The east end—which way is north?

Q. Right there. Put your pointer up and I'll tell you where to move. Put your pointer up. Now move your pointer to your right, to your right—not up.

A. Oh, excuse me.

Q. What's that dot right there?

A. Right here?

Q. Yes, sir.

A. That's the Confederate memorial monument put up by [fol. 998] the—

Q. Do you remember the exact position of that monument with reference to the Lyceum and the other installations?

A. Yes, sir, this is a tree-clustered circle, I mean it's a real pretty place, with park benches all over it. The Lyceum is at one end and at the very opposite end, facing University Avenue, is the Confederate monument.

Q. Now put your pointer where the Marshals were with respect to the Lyceum.

A. The Marshals at first they came right here and as more truck loads came they just slowly circled the Lyceum completely.

Q. And where then were the highway patrolmen?

A. The highway patrolmen were stationed like this (indicating).

There was a whole lot of students right around here and right around here, I mean, like I say, "A whole lot," several hundred and the State Police stationed right there, right in the very middle.

Q. Where were you?

A. At what time?

Q. Before the tear gas was fired?

A. I was right there on the curb.

Q. Were you east or west of the curb of the circle?

A. Sir?

[fol. 999] Q. Were you east or west of the curb of the circle? East is on your right, remember.

A. Well, the curb is right there. I was standing—there is a cement curb and then grass there. I was standing right on the grass right by the curb.

Q. Now from that time on—take your seat again—tell the jury further what happened.

A. Well, like I said, it was a tense atmosphere, I mean naturally you expected, if you have—I mean it couldn't be anything else with how they were dressed; I mean it was just sort of, looked like something—I don't know why they were dressed that way cause half of us didn't know what they were doing dressed that way but they were there.

The Court: He asked you what happened.

By Mr. Watts:

Q. Go ahead and tell what you saw, son.

A. Well, there were some cigarette butts thrown, I mean as the night progressed, I mean, 5:00 and 6:00 on like that.

Q. All right.

A. There was people started flipping cigarette butts at the Marshals, I guess—I don't know what—they were just flicking them at them.

[fol. 1000] And they put a Confederate flag on the back of one of the Army trucks. Somebody just went up there and stuck it on. And I saw one bottle thrown.

Q. Uh-huh.

A. I am not going to say there weren't more, but I mean I was up in the front and I saw one bottle thrown, and suddenly, I don't know what or why, but tear gas just started coming at us, you know.

Q. Did you see the position of the Marshals as they fired that gas?

A. They were right across the street from us.

Q. Was it fired in a single round, or was it fired in a salvo by all the Marshals you could see?

A. Well, I don't know how many Marshals fired, but it was fired more or less in a volley. And on the girls, I mean, you see there were a lot of girls out there. This was not just boys, there were girl students out there, students and boys and everybody, and some of the girls started screaming, and everybody just started turning around and just running.

Q. At the time the tear gas was fired, were the Marshals between the—strike that. Were the Highway Patrolmen between the students and the Marshals?

A. Yes, sir.

Q. What was the closest that a student was to a Marshal [fol. 1001] at the time of the firing of the gas?

A. The width of the street.

Q. Had you at any time, or had at any time any students come in physical contact with the Marshals?

A. I hadn't, and none that I know of.

Q. Would you have seen it along there? Were you in a position where you must necessarily have seen it had it happened, in that area?

A. I should have seen it.

Q. What happened after the tear gas?

A. Well, everybody ran back in the direction of the Confederate monument, back at the other end of the Grove.

Q. About how many people could you estimate, as best you could, were in the circle at that time?

A. Three hundred, or something like that.

Q. All right. Go ahead.

A. Of course, there were some people over on the side too. The Lyceum Building has four sides. There were about one hundred on the side, on the north side, across the street too. And the people just started running back toward the monument, because the smell was horrible. Well, I mean it is exactly what it means, just tear gas because you just started crying. It is very penetrating. Of course, I had never been tear gassed before, but all the girls were crying. And they started running toward their dormitories, and the [fol. 1002] boys went back to the other end. And what followed from then on, I guess, was a case of reaction. I don't know what you would call it. I mean, the reaction to the tear gas and the reaction to what had happened. But I just—students were resentful at least. I mean the ones that were—they really started yelling then, I mean calling the Marshals names.

Q. Did they start throwing things then?

A. Well, they went back to the other end, at the monument, and there were some rocks in the streets and bottles there on the campus, and a bunch of the students started picking up anything they could find then and to start running back up there and throwing them at the Marshals, and from then on is what you might call a riot. It was a riot.

Q. Was it an organized activity? That is, was there any leadership?

A. No, sir.

Q. Did you see anybody out there in front that was issuing orders or commands or was there anybody there?

A. No, sir. No, sir. I will say this. The first couple of charges, the very first, you know, it was sort of like a gallant, I guess, entry, when they would march across, you know, in lines, you know.

Q. Yes.

[fol. 1003] A. I mean there were several charges like that, I mean some people had Confederate flags and they were in the middle of the crowd. They were not out in front, exactly, but after the tear gas—the Marshals started firing back with tear gas so as the night progressed, very quickly they just—it came into a disorganized attempt just to get a rock or any missile that you could find that you could throw, and run up and throw it, and then dodge for a tree or anything you could hide behind, because those tear gas canisters are approximately that long (indicating) and that big around and weigh several pounds and they are fired with such a force that they will shoot far—I mean, over the length of a football field. So they arched them over the monument from the Lyceum, because we watched them going over and landing in the University Avenue intersection out there.

Q. Outside of that first couple of movements immediately after the tear gas was fired, was there any further reaction at one time of the entire crowd, or was it sporadic, as you testified?

A. It more and more, it just became, people would run back and if you could find a brick or a rock, they went fast—they would sort of make their own missiles.

Q. In these just two moves that you testified about, did they have any leadership? Was anybody out in front of [fol. 1004] them?

A. No, sir. Just people would yell and they would say, "Come on, let's go get those Marshals."

Q. Did people then go on toward the Marshals and throw things?

A. They would run up there, and when they started opening up with that tear gas—I mean, all of them started firing, all of the Marshals.

Q. What happened, then, to the Highway Patrol?

A. The Highway Patrol, for several hours there, an hour or so, or an hour and a half and two hours, I don't know what happened to them. Because I mean I do know they

were running back too; because their—we had asked them, "Don't you all have gas masks?" They had gas masks. And they said—we asked them why weren't they working. They were out crying too. And they said the smoke, I mean this tear gas penetrates this gas mask. It is not effective against this tear gas they are using.

So, the State Police, I mean they sort of tried to get out of the way too.

Q. Did you ever, that evening, see General Walker?

A. Yes, sir.

Q. Will you tell the Jury in your own words where and when you saw him and what he was doing?

A. Yes, sir. Well, I had run back to the monument, back [fol. 1005] in that direction, and I heard some people say, "Here comes General Walker."

Q. All right. Now, excuse me, son, right there a minute. As of that time, how long had it been since one of these—that you were talking about—general movements of the crowd occurred?

A. Oh, they had disappeared a long time ago. This was now just—this was in the nature of the riot, now.

Q. Could you estimate in time as to minutes or parts of an hour, half hours, quarter hour, whatever it was?

A. What time he arrived?

Q. Yes, how long after these general movements of the crowd you testified to about ago—a while ago, had it been before General Walker arrived?

A. Well, these movements I was telling you about at first didn't last long. I guess because experience is the best teacher. But some of these people had had their hands burned, and one boy got hit in the back. I mean, he was terribly hurt, but, I mean like I say you are not going to keep doing that with those things coming at you.

Q. From the time of the last of those general movements until the time Walker arrived would you say an hour, half an hour, quarter hour?

[fol. 1006] A. I would say over an hour.

Q. Go ahead, then. You said you heard someone say, "Here comes General Walker."

A. Well, I was right—I was right beside the monument, or right in about no more than five or ten feet from the monument, and I looked out and—

Q. Take the pointer and just explain it to the Jury.

A. Here is the monument. I was standing right about like that (indicating) and I looked out and I saw General Walker right across in this position. This is south. I saw him right here, and then people would say, "Here comes General Walker, here comes Walker."

Q. All right.

A. That was the first I saw him, so I ran over, and I said, "General Walker, I am from Texas. Would you lead us?"

I mean, it is hard to explain to you all now how I felt.

Q. Well, as best you can, tell them how you felt.

A. I was very resentful. I mean, you can't explain how you felt. I mean, it was just something spontaneous. You just wanted to get back at the Marshals, because of how they had fired at you, because several girls got hurt. One girl got hurt from firing that tear gas cannister. It hit [fol. 1007] her in the back.

Anyway—anyway, we were very resentful and we wanted to get back at the Marshals, like I said, and if we had been organized—

Mr. Gooch: If the Court please—

By Mr. Watts:

Q. Just go ahead and tell us what you said to General Walker and what happened.

A. I said, "General Walker, would you lead us?"

Q. All right. What did he say?

A. He wouldn't answer us.

Q. From this point, just try as best you can to relive that instant, just visualize it in your mind and tell the Jury just what you saw and what happened.

A. Well, as I remember it, there were several men out in this—with him. I don't know what it was. They were there with him, and as I ran over he was about by the monument when I started asking him this.

Q. Uh-huh.

A. And there was this sort of fat—he was a Sheriff, had a star. I guess he was with him. I remember him quite vividly because he was a prominent figure.

I mean, he was noticeable, and we kept asking him, "General Walker, what can we do?" And the people kept coming up and saying, "General Walker, what can we do? We can't get to them. Would you lead us, sir?" [fol. 1008] And he never would answer, he just kept looking at the Marshals, and walking. And they walked up a ways and—

Q. About how far would you say he walked from the monument?

A. From the monument?

Q. Yes, just point to roughly the furthest westward point he walked.

A. This is hard to remember.

Q. Well, do you know where the flagpole is?

A. Yes, sir, it seems to me we walked somewhere in that vicinity, right there (indicating).

Q. Are you pointing to the flagpole?

A. Yes, sir, it was here, this side, or this side. I am not sure which (indicating). I don't remember. And we walked over there, and he stood there and looked. And he stood there and looked several minutes, just at the Marshals. He stood there.

Q. Take your seat again. As you walked in that direction, what gait did General Walker walk?

A. It was very slow because it took us—I was right there with him. I kept asking him, I was persistent would he lead us. And it took us about five minutes to get up there. It was about—

Q. Now, tell the Jury about the crowd in the vicinity, [fol. 1009] how many there were, if you can. I am sure

you didn't count them, but tell us what they were doing, what they looked like.

A. The crowd of who?

Q. The crowd in the vicinity of General Walker. Now, you were walking with—were you walking along with him?

A. Yes, sir.

Q. Can you remember whether—I don't guess that would be a fair question, whether you were on his right or left, or do you know?

A. I was on his left.

Q. Incidentally, did anybody have a hold of his arm?

A. No, sir.

Q. Go ahead.

A. From where?

Q. From the time you started walking on to the westward there.

A. Well, about this time I was standing there and looking and the Highway Patrolmen started pulling out. I mean they got in their cars.

Q. Well, wait just a minute. Let's go back a little and cover in detail about on the way up there.

I have asked you a question about the crowd. Would there be any way to estimate how many boys trailed along [fol. 1010] as you went toward the flagpole there?

A. Well, several of the boys would run over and ask him would he lead us and when he wouldn't answer they would just run back, if you know. I mean, they didn't know what to do. They would just run—just run—they might have a brick, you know, and he wouldn't say anything, and they would just run on up and try to throw it. But, I would say approximately anywhere from ten to twenty-five people in the immediate company that stayed with him, and didn't run away from him.

Q. You say ten to twenty-five stayed with him and didn't run away?

A. Didn't run away.

Q. Were there other then that would move around in the vicinity?

A. Well, what I am saying, there were ten to twenty-five that were not participating in the riot at that moment.

Q. What were they doing?

A. They were trying to get him—they were asking him—I mean—

Q. Did Walker participate in the riot in any way?

A. Sir?

Q. I say, did Walker participate in the riot in any way?
[fol. 1011] A. Do you call his later speech participating?

Q. No, I am talking about on the trip up there.

A. No, sir.

Q. All right, go ahead. I am talking about solely from the time you were walking on from the monument up toward the flagpole. What else did he do besides walk along and talk to you students?

A. Well, occasionally this Sheriff would say something to him, but I mean, you know, he never would make any—

Q. Did any of the students around him, within as far as we will say that wall over there, throw a missile when they were that close to him?

A. No, sir, you couldn't throw that far. There were trees in the way anyway. You would have to throw it up high to get it to go that far. The trees were in the way.

Q. Now, you say you walked on to the flagpole and then turned toward the southward, or your left?

A. Yes, sir.

Q. At that time or any time approximating that did you see a minister? He has been identified as Rev. Duncan Gray?

A. I don't remember.

Q. Were you then with him—were you right with Walker all the time?

[fol. 1012] A. Yes, sir.

Q. And you have no recollection of Rev. Duncan Gray?

A. I have no recollection of it.

Q. Then go ahead and tell us what happened after you cut to the left, or south. You started to say something about the Highway Patrol?

A. Okay. The Highway Patrolmen, they had their cars in that vicinity and they all got in them and pulled out down the south side of the circle. They were driving out—coming out, leaving, and some of the students started running over to them and saying, “Why are you leaving us?” You know, and they would tell them to come—I heard one boy—well, that is incidental though. Anyway, they were leaving, though, the Highway Patrol were, and the students didn’t know what was coming off, and anyway Walker was walking, was still walking back toward the monument. Some of the people said, “Tell us something, give us a speech, General Walker; say something. What can we do?” And about that time General Walker, he went back to the monument, and the crowd gathered around him, and he gave a speech.

Q. Did you gather around him?

A. I was above him on the monument.

Q. You mean you climbed up the monument?

A. Yes, sir.

[fol. 1013] Q. Which side of him were you on?

A. Well, facing down University Avenue, I was standing in front of the monument. I was hanging on above him, up above him.

Q. Was anybody up above you?

A. No, sir.

Q. As best you recollect, tell the Jury what General Walker said to these boys?

A. Well, they kept saying, “Will you lead us? Give us a speech.”

So, General Walker says—oh, I can’t remember all his speech.

Q. You don’t have to, I understand.

A. I just remember parts.

Q. Just tell the best you can.

A. Okay. He says, “You all have a right to protest.” I remember that part.

And he said something about—well, I don’t remember that well enough to even know what it was. Something

about blood being on the Government's hands, or something like that.

Q. All right.

A. And—oh, the people said—the Highway Patrol had just left, it seems like, or it hadn't been too long, and some of the people said, "Did Ross sell us out? Did Ross sell [fol. 1014] us out?"

And General Walker said, "You have been sold out, but not by your Governor Ross Barnett. It was by Col. Birdsong."

He is the Director of the Highway Patrol, I think, in Mississippi.

Q. Uh-huh.

A. And then this minister, he tried to get General Walker—I don't remember if he tried to get General Walker to disband the crowd, or tried to tell the students to leave themselves and quit rioting, but anyway, he and General Walker said something—some things between them, but I don't remember all they said between them, but anyway, finally General Walker said—I remember this very plainly, he turned around and said, "You know I am ashamed now I am an Episcopalian," or something to that effect.

And the crowd, oh, this time, most of them, you know—I mean, these were not all rioters by no means because there were always people down at the other end of the monument, people who were not participating at all, or doing anything, just standing there and watching as observers, and they came over. And there were some women in the crowd. I remember that very distinctly. And the people would occasionally say, "Would you lead us?" And he never would answer them.

[fol. 1015] And when he—most of the people, I mean the people who were involved, I mean who were involved in the riot, they just started leaving, though, when he wouldn't say anything. They would say, "What can we do? And he wouldn't ever say anything, and they would say, "Will you lead us?" And he wouldn't ever answer, and they

started going back and the crowd just sort of disbanded.

I don't know—don't remember how, exactly. I think the people just sort of left, because they were—they were—at least the people involved in the riot saw what—it was pretty futile what they were doing. They needed some kind of a plan and they had none, because everybody was sort of on their own, and when he wouldn't lead them, they just started going back. Going back—a lot of them went over to Hume Hall where they were building this new Science Building and got some bricks and broke them up, and others just ran on back up there and started throwing again.

Q. Were you still above General Walker when he finished his talk?

A. Yes, sir, I was above him when the crowd disbanded.

Q. What did he do then?

A. He stood there and was talking to these people for several minutes there, and then, I mean, I would say—[fol. 1016] I mean, it is hard to say. Maybe three hundred people were around the monument at that time, and I had to wait until they moved so I could jump down, and I was there about a couple of minutes, I would say from two to five minutes, somewhere along there.

[fol. 1017] Q. Now what was the effect on you individually of General Walker's speech?

A. Now again, you all won't understand this, but I was disappointed because I thought, I thought really and truly that we might find a leader because everybody knew General Walker and I thought we might have a leader and he didn't, he wouldn't lead me—he wouldn't lead any of us.

Q. All right, go ahead and tell what happened after the speech.

A. Well, the riot just—well, at first—

Q. Did you stay with General Walker after the speech?

A. Not for more than a couple of minutes, like I said,—

Q. What did he do in that two minutes?

A. Well, he was there talking and when I finally could get down, I ran back up—excuse me (taking pointer).

We had some cement benches on the campus there and they were trying to break them and it was right in this vicinity right here, I ran back up to here, it was right—

Q. Were you in a position there to where if General Walker had participated in a movement towards the Marshals of a thousand people, you could have or would have seen it?

A. Well, first, there weren't a thousand people rioting, not really. There may have been a thousand people observing from here (indicating), all back in here. But there was [fol. 1018] not a thousand people rioting.

Q. If he would have moved towards the Marshals, in front of or in the very center of the group of as many as a hundred, would you have seen that, do you think?

A. Yes, sir.

Q. Did you see anything of that kind after you moved up to that point?

A. No, sir.

Q. What kind—describe the activities of the crowd after you left Walker and moved up in that area.

A. Well, like I say, I went back up a ways, breaking some bricks, and there was—people, they would—there is only so many trees on that campus within throwing range of the Lyceum, I mean, you know, where you could throw without hitting the branches hanging down and reaching and usually that was pretty limited, the number of people who would go up there, because if you couldn't hide behind a tree, you were sunk, sort of.

Q. What sunk you?

A. Well, if you would have—well, those things they fired, those tear gas cannisters, they were fired with tremendous velocity and, I mean, if it hit you, boy, it could really hurt horribly bad.

Mr. Watts: I believe that's all.

Cross examination.

[fol. 1019]

By Mr. Gooch:

Q. Just a question or two, please, sir.

Mr. Jackson, I believe you stated the first time you saw General Walker, he was coming on to the campus, in a westward direction?

A. Let's see, westward is towards the Lyceum?

Q. Yes, sir.

A. Yes, sir.

Q. And at that time you and a group of them rushed up to him and asked him to lead 'em, lead them, lead you?

A. Well, there were people running up to him. I was—I yelled, "Would you lead us?"

Q. About how many ran up to him at the time you first saw him there as he came on the campus, or the first time you saw him, rather?

A. Yelling, "Would you lead us?"

Q. Yes, sir.

A. Oh, when I first saw him, the word was just spreading that, "Here comes General Walker." I would imagine five or ten people turned around and said, "What can we do," or "Would you lead us?"

Q. All right. Did any others gather after the word got out?

A. Gather where?

Q. Gather around General Walker?

[fol. 1020]. A. Well, there were some people who went over, I imagine some went over just to see him, I mean, see who it was because you had heard about General Walker.

Q. Please tell us what you saw.

A. Yes, sir. Like I said a while ago, there were from 10 to 15 people around him and these were—

Q. All right. Was General Walker still walking west when these 10 or 15 people were around him?

A. They didn't get around him until he got up past the monument, I mean it takes a little bit of time to find out

that this is General Walker and when they found out, I would say that from the point he passed the monument until he walked up to his farthest point, the people around, 10 to 15, I would say, students.

I said a while ago there was probably from 10 to 25 people in all. There were some, several men with him.

But these students, they ran over, were asking him, "Would you lead us, General Walker?"

Q. I am trying to get you to tell me how many people were with General Walker, say, when he got to the flagpole?

A. No more than 25.

Q. All right. What were the students doing at the time he got up to the flagpole with what you say is 20 or 25?

A. The students out front who had rocks and a tree to [fol. 1021] hide behind were throwing the rocks. Students who were just spectators and the people that were spectators were back there in the grove, were standing and watching and others were running back for more rocks.

Q. Now immediately after the speech down on the monument, isn't it a fact that there was a considerable number of people that went from that area back towards the Marshals? And threw things at them?

A. Depending on what you mean by "considerable".

Q. Well, 10, 20, 30, 40, 50, any number you want to pick out.

A. There were people who went back up.

Q. You don't know whether General Walker was with that group or not, is that what you are saying, or was he?

A. Just a second. I'm trying to think what you mean—I mean trying to—General Walker—what I am saying is, the crowd that went up to—the crowd that went up to riot again from his speech left before he did.

Q. That's what I—

A. But he stayed there for at least five minutes, I know, because it was two minutes before I could get down and I was—I saw him there talking to—with these people for another couple of minutes before I ran back up there and started breaking up some cement things.

Q. Did you ever see General Walker again that night?
[fol. 1022] A. No, sir.

Q. All right. Now you have testified that the best recollection that you have of what you heard him say on the campus was what?

A. Do you want me to repeat what I said in this speech?

Q. That's right.

A. He told us, "You have a right to protest."

Q. All right. Now the speech was made after he had gone up there to the flagpole with this group that you have described, wherein at least you could see that they were still throwing at the Marshals, is that correct?

Mr. Watts: If Your Honor please, I object to that as an improper question.

The Court: Overruled, Counsel.

Mr. Watts: All right, sir.

The Witness: Would you repeat your question, sir?

Mr. Gooch: Would you read that back to him, Mr. Nuss?

(Last question read.)

By Mr. Gooch:

Q. Shall I rephrase the question or do you understand it?

A. Yes, please.

Q. You have testified, as I understand it, that when you first saw him, he was walking westward, that he continued [fol. 1023] to walk westward with the group that you fix as somewhere around 20 or 25, am I right up to there?

A. From 10 to 25, yes, sir.

Q. That he walked on to the vicinity of the flagpole or a little bit past, you indicated when you had the ruler up there, is that correct?

A. Yes, sir, to the best of my recollection.

Q. And you testified at that time you could observe or at least you could observe people out in front between the flagpole and the Lyceum Building throwing at the Marshals?

A. Yes, sir.

Q. Now my question is, that when he got back to the monument, it was after he had been up there in the group that you were with, that he made the statement that, "You have every right to protest," is that correct?

A. He said, "You have a right to protest."

Q. Did he say anything else that you remember besides Birdsong and about the Episcopal minister?

A. Well, he said—I don't remember exactly—about blood being on the hands of the Federal Government or something like that but I don't remember—I mean it was just a phrase I mean, something, seems like it's in my mind, you know, I heard him say but I mean, you know, I can't give you the complete statement.

[fol: 1024] Q. Now you were up on the monument almost leaning over him, I assume, is that correct?

A. I was in several feet because the monument is built sort of like that (indicating), and it's got a place up there, a little ledge or thing you can hang on that I was—not a ledge, but a little place you can put your feet and I was hanging on that.

He was not on the monument. He was down on the, sort of, little—the ground sort of rises above the monument. He was down on the ground.

Q. Could you see him?

A. Yes, sir.

Q. Could you hear him?

A. Yes.

Q. And you have done your best to detail what you heard him say there at the speech on the monument, is that right?

A. Yes, sir.

Mr. Gooch: Thank you, sir. That's all.

Mr. Watts: Thank you.

The Court: I am going to excuse this witness then.

Mr. Gooch: Wait a minute. Just a moment would you, please, sir?

By Mr. Gooch:

Q. How many people would you estimate was around the monument when he climbed up to make his speech?

[fol. 1025] A. Well, he didn't climb up but when he was there—

Q. All right.

A. —it seems to the best of my memory, 300.

Q. All right. Now when he began to talk, when he said you had a right to protest, did he elaborate on that?

As a matter of fact, didn't he say this, that you had a right to protest what had happened there and the Marshals being sent in against the University to make sure that Meredith got in?

A. Well, there is a distinction between "protest" and "rioter".

Q. Well, I am asking you if that isn't what General Walker said, that you said he said when your deposition was taken in Mississippi?

A. Would you repeat it, please.

Q. I have Page 45, of the witness' deposition taken at Oxford, Mississippi.

Question—or the answer, about the middle of Page 45. Would you refresh your recollection there, please, sir?

A. (reading) I remember: . . . he said that we had a right to protest against what had happened there in—and the Marshals being sent in against the University to make sure that—

[fol. 1026] Q. Do you remember testifying to that over in Mississippi?

A. Yes, sir.

Q. Is that true?

A. Yes, sir.

Q. All right. Did he say that you had a right to protest?

A. Yes, sir.

Q. Did he say something like this: "You may not win but you will be heard"? Did you hear a statement to that effect?

A. It seems like I did. I mean I can't tell you that I did because I mean it just seems like I do remember it.

Q. Did you hear him say, "This is a dangerous situation."?

A. Yes, sir.

Q. Then you said that he mentioned something about General Birdsong?

A. Yes.

Q. Did he say anything about having sold out to Kennedy (indicating)?

A. Like I said, "or something like that." I don't remember if it was—who he said who he sold out to but he sold out.

[fol. 1027] Mr. Gooch: In order that the record might show, your deposition was taken on March, the 12th or 13th down in Mississippi by Mr. Watts, was it not, in which I cross-examined you?

The Witness: This is true.

By Mr. Gooch:

Q. Now you know—don't know what happened to General Walker after his speech was over, do you, after he got down from the base of the monument?

A. No, sir.

Q. I believe you stated earlier that the condition worsened insofar as the taunting of the Marshals and the throwing of at least one bottle along about dusk?

A. Yes, sir.

Mr. Gooch: I believe that's all. Thank you, sir.

Mr. Watts: Thank you.

Would you send Danny Hunter in, please?

The Court: You are excused. Send Mr. Hunter in.

DANNY LEE HUNTER, called as a witness by the Plaintiff, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Watts:

Q. Would you state your name, please.

A. Danny Lee Hunter.

Q. Where do you live?

[fol. 1028] A. My home is in Morton, Mississippi.

Q. How long have you lived there?

A. Twenty-three years.

Q. Who are your parents?

A. Mr. and Mrs. Woodrow Hunter.

Q. Move that mike a little closer there to you if you want to, make it a little easier.

A. All right, sir.

Q. Were you a student at Ole Miss in the fall of '42—I mean '62. I'm sorry.

A. Yes, sir, I was.

Q. How long—what school were you in?

A. I was a first-year law student.

Q. What school are you in now? What class?

A. Third year, law student.

Q. Were you on campus that night?

A. Yes, sir, I was.

Q. Were you—where did you live on the campus?

A. Howry Dormitory.

Q. Had you been on campus over the weekend?

A. No, sir, I had not. I had gone home.

Q. About what time did you get back?

A. At approximately 7:30 we arrived on the campus that Sunday afternoon.

Q. Who was with you?

[fol. 1029] A. I was with my roommate who was also from Morton and probably some more boys from Morton usually rode with us when we went home.

Q. Where did you go when you got back to the campus?

A. We drove onto the campus and went around the circle, by the Lyceum Building, and by the student union building, to Howry Dormitory, which is right there across from the old cafeteria, parked the car and loaded our luggage.

And went back out to the Lyceum Building because it was, the Lyceum Building, when we arrived, was surrounded by United States Marshals and it was a large group of students out in front of the Lyceum Building and the Mississippi Highway Patrol was there between the students in front of the students, between the students and the Marshals, and we were, of course, curious to find out exactly what was going on.

We had heard that the Marshals had come on the campus over the radio as we were coming from home to school, and when we arrived, we saw that the reports were correct.

And we parked the car and was curious to find out just what was going on, so we went down to the Lyceum Building.

Q. What did you see when you went out there?

A. Well, as I said, the Lyceum Building was surrounded [fol. 1030] by Marshals. A large number of students were accumulated. And others were coming in practically all the time.

The students were, seemed to be rather anxious, excited and angry and there was an army truck parked in front of the Lyceum Building, maybe too, a jeep, an Army jeep.

And for about, well, the next 30 minutes, or so, we were just there in front of the Lyceum Building, generally to the northeast.

Q. Did you know where the circle was?

A. Yes, I am very familiar with the circle.

Q. Did you get down in the circle?

A. Yes. Not very far. Usually right around the curb there in front of the circle.

Q. All right, go ahead.

A. At approximately 8:00 o'clock, or possibly shortly after 8:00 o'clock, I remember I was standing on the curb

observing the best I could just what was happening and Chief Marshal McShane came out of the Lyceum Building onto the front steps there and hollered, "Let 'em have it, gas."

[fol. 1031] Q. Now, did the Marshals let them have it?

A. Yes, sir, just at that time some of the Marshals started firing tear gas into a crowd that had accumulated in the Circle and the street.

Q. Now, did they fire that gas with a flat trajectory or lobbin'?

A. It was flat.

Q. What happened?

A. Well, practically everybody—well, everybody, including myself, turned and ran just as fast as they could back down through the Circle, and I went over to the Y Building and out behind the Y in an area which is known as the Grove where the—

Q. Were there any other personnel between the United States Marshals and the students at the time this gas was fired?

A. Yes, sir, the Highway Patrol was still there all the time.

Q. What were they doing to the students?

A. Just trying to keep them quiet, see that they didn't get up around the Marshals, and talking to them and holding them back across the street the best they could.

Q. Sometime immediately before the gas was fired, what was the distance between the closest student you saw to a Marshal and the Marshals themselves?

[fol. 1032] A. Probably about eight or ten feet.

Q. All right, go ahead.

A. As I said, they fired the tear gas. I turned around and ran back to the Y Building.

Q. Did you go in the Y Building?

A. No, sir, I ran out behind the Y Building to the Grove, and I stayed there a while and I could hear tear gas still being fired, and I ran back around in front of the Y to see the best I could what was going on, and there was a group

of students, mostly students, probably, and a few other people, were grabbing things, bottles and rocks and running up and throwing back at the Marshals that were firing the tear gas.

Q. Now, could you tell the Jury, please, sir, how that activity looked to you as to the movement of personnel involved in it, where they would come from, where they would go, what they would do?

A. Are you asking about the students?

Q. Yes, the activities of the students.

A. Yes. It was—it was just a lot of confusion and people running around all over the place. Didn't know what to do. Most everybody was scared to death. And practically everybody was glassy eyed from the tear gas because it made you cry. Kind of made tears run out your eyes.

[fol. 1033] And most of the girls, and most of the boys also, stayed back out of the way, as far back as they ran, further. But, or some of them went back up. A pretty good crowd of them came back around and accumulated around the Y, and would grab things and run up into the Circle and throw them at the Marshals and the Marshals would retaliate with more tear gas. Consequently, the air became filled with tear gas and you could see people out in the Grove, scattered out all through there, practically all over the campus. You could just look around.

Q. Now, would you know about what time this was?

A. Oh, when they first fired the tear gas I said I ran back behind the Y and I stayed back there a few minutes and come back around in front of the Y and this was probably around 8:30, something like this.

Q. All right, go ahead.

A. And for about fifteen or twenty or thirty minutes, possibly longer, this is where I was, in front of the Y Building. Between the Y and the Lyceum Building.

Q. Did you at any time hear anything about General Walker?

A. Yes, sir, I was in the street in front of the Y Building. I heard several people say, "General Walker is here." I said, "Where?"

"Down the street in front of the statue, Confederate [fol. 1034] statue," and at the head of University Avenue which runs into the Circle, and I turned and went down there and I saw General Walker with a few students around him. And I ran up to him and introduced myself. It was—there was already several people accumulated around him. I had to edge my way through the crowd. I got up to him, I shook hands with him, I said, "Is this General Walker," and he said, "Yes, sir." And I said, "Well, I am Danny Hunter. I am glad to meet you," or "Sure am glad to meet you," or "How are you?" Or something to that effect.

And the word was getting around that General Walker had arrived on the campus. And as people would hear it they would run down there to him. Everybody was wanting to meet—get up to him and introduce themselves, shake his hands. Some of them was asking him, "General, organize us and lead us against the Marshals. They fired on us. What can we do?"

And he didn't say anything to them while I was there. But I was edged out, back on down in a southeasterly direction into a street there where the Circle runs back into the Y as it comes back around.

And, as I say, the crowd just kept getting bigger and bigger as the students kept coming down.

And I stayed in the street there, tried to look, watch and see what General Walker was doing as he milled [fol. 1035] around, meeting people, looking around, seeing what was going on.

And as I recall, seems like that he stepped out into behind the statue into what is called the Circle. That is where there isn't any building.

Q. Oh, yes, at any time in this time area did you see a big heavy set Marshal?

A. No, sir, I don't recall it.

Q. I mean a Deputy Sheriff. Now, excuse me. Deputy Sheriff?

A. No, sir, I don't recall that either.

Q. Don't recall him either. All right. Go ahead.

A. And I just stayed there in the street trying to see what was happening down here, observing to see what General Walker was doing. And he was just looking around there, meeting people. Some of them were still asking him to lead us, to organize us. And he went into the Circle, looked around out there. Walked around a little bit.

Q. About how far into the Circle did he go?

A. Oh, probably about—oh, forty or fifty feet in that direction.

Q. How long did he stay there?

A. In a westerly direction. Sir?

Q. How long did he stay there?

[fol. 1036] A. Probably about fifteen or twenty minutes. I remember I was still down there in the street.

Q. You didn't follow him then into the circle?

A. No, sir, I was still in the street. I was just looking. Just looking around in his direction, watching to see what was going on.

Q. Could you tell the Jury, please, sir, about the size of the crowd you saw out in the Circle with respect to Walker?

A. With respect to Walker, any crowd that was with him would probably be just about six or eight immediately around him?

Q. Then what about the rest of them?

A. But there were others scattered out. There wasn't too many of them out there at the time, I don't think. Most of the people still were down in the street.

Q. All right.

A. And I recall that a lot of them came down there around where I was, because there was some Highway Patrol cars leaving the campus, coming around the Circle into the avenue, and a lot of the people were asking the Highway Patrol why were they leaving, asking if they were coming back, who ordered them, where they were going, begging them not to go, really, I think, and this

was when—this was while I was still down there in the street.

[fol. 1037] Q. You were still—now, which direction from the monument were you at this time?

A. Generally in a southeasterly direction.

Q. Now, where was Hume Hall from where you were?

A. Hume Hall was behind me.

Q. Now, to shorten this a little, were people running back to Hume Hall and picking up brick and things?

A. Brick and anything they could find. Hume Hall was in the process of being built.

Q. Go ahead and tell us what happened after the Highway Patrol cars—first, where did they come from? Which direction?

A. They came from up on—from up in the Circle.

Q. Could you take your pointer and step over there to the chart and find the Circle and show us roughly where the cars came from?

A. I can show you where I saw them.

Q. That is what I mean. Get the pointer and walk over to the chart, which is Exhibit 11. Start out from the monument. Put the pointer on the monument.

A. This is the monument right here (indicating), and I was right in here. Hume Hall is right back in here somewhere, and I saw the Highway Patrol coming out in here, this way (indicating).

[fol. 1038] Q. All right. Take your seat again. Tell us what happened after the Highway Patrol left?

A. Didn't much happen after the Highway Patrol left, different from what was already going on. A few minutes later General Walker came back. The crowd was getting bigger down there. People were still asking him to lead us, make a speech, tell us what to do, and he walked up to the Confederate statue and made a short speech.

Q. Did you hear all or any part of it?

A. Yes, sir, I think I heard most of it.

Q. Tell the Jury what you heard?

A. He said that these troops shouldn't be here, that they should be in Cuba. He said that, "Your Governor has not sold you out." He says, "Somebody name Birdsong has sold you out." And then he told us that he had walked from downtown Oxford and that while he was downtown on the square where the Courthouse is that some gentlemen had told him that somebody named Birdsong—he had heard somebody say that Birdsong had sold them out, and that all he knew about the truth of this statement was that he had heard this gentleman downtown at the Courthouse say it. That the Governor had not, "sold you out", and that somebody name Birdsong had.

Then, cautioned the group to avoid violence. He told [fol. 1039] them they had a right to protest as long as they wanted to, but to try to avoid violence at all times. And I think that was about all that he said.

Q. What effect or reaction did the speech have on you?

A. Oh, not much effect. I didn't think too much about it. Actually, I didn't think it was what the students wanted to hear. I know when he said, "Let me caution you to avoid violence," he got an unfavorable reaction from the crowd there.

Q. What do you mean, unfavorable reaction from the crowd?

A. I heard some people say, "What the hell is he doing here?" And, "If he is not doing anything—this guy is just here to look around. Let's go. We are not going to get any help from him."

Some people booed or hissed or something like this.

I was still kind of on the outskirts of the crowd and about that time he just come back into the crowd, kind of over where I was and started talking to some people, some boys there who probably were still asking him to help them out.

And I was a little closer to him then that—than I had been when he made the speech, and it was still down in [fol. 1040] the—down in the head of the avenue there. I heard him say, "Well, let's walk up here and see what is

going on." Or something to this effect. Might not have been those exact words.

Q. Was this after the speech?

A. Yes, sir, a few minutes after the speech.

Q. What did he do immediately after he quit talking?

A. He just stood around there talking to some people that was trying to get up to him.

Q. All right. Go ahead.

A. And I said all the time I was watching to see—just to see, actually, what he was going to do. And I heard him say, "Well, let's walk up here and see what is going on."

And he started walking in that direction, over kind of to the south a little bit, first, and then on up toward the flagpole. And the people immediately around him, or some people was right around him all the time. A lot of the others down there following along, and including myself, I followed along.

Q. How close were you to him as he walked along toward the west?

A. Well, when we first started down around the bottom of the Circle, probably around eight or ten feet, and then as we got on up he got a little further ahead of me, and I [fol. 1041] probably followed twenty or twenty-five feet behind him.

Q. What was his gait as he walked away from the monument?

A. Sort of a stroll, real slow. Not real slow, but just kind of stepping around, crossing.

Q. I wish you would try to visualize that situation, as he left the monument, try to relive it and tell the Jury just exactly how it looked to you.

A. As he left the monument, he stepped out toward the people in the street. They were still talking. Some of them were, some of them turned around to go the other way.

I just stood there watching them, over the crowd as best I could.

I couldn't hear what he was saying to them because he wasn't saying it out loud like he was when he was making his speech.

He maybe—he kind of just walked through the crowd there, talking to these people. He would occasionally stop and talk to somebody who would seem to be pressing him.

And this is when I heard him say, "Let's walk up here and see what is going on." And I said, "Well, he is going up there." I mean I thought—I said, "Well, he is going [fol. 1042] up there," to myself, but he didn't just proceed on up there as I first thought, but—

Q. How far did he go?

A. He stood around talking to some people.

Q. Did he go all the way at a single move, or did he stop from time to time?

A. As he walked through the Circle up toward the flag-pole?

Q. Right.

A. He would occasionally stop and talk to somebody when they would come up to him, but never for too long, I don't think.

Q. What was going on further up toward the westward where the Marshals were, at that time?

A. Up around the Lyceum Building there were still people up there throwing rocks and bricks and running back.

Q. Could you describe to the Jury how this operation was as to the type, size crowd, the activity and what they were doing?

A. They were small groups scattered out, probably more in the northeast than in the—on the west side, I mean on the south side. And probably less on the south side than on the north side, because it seemed to be thicker over there, because more people ran back in that direction.

[fol. 1043] The Court: Let's recess at this time.

Mr. Watts: All right.

The Court: Ladies and Gentlemen, we will recess until a quarter until 4:00.

(Short recess had.)

[fol. 1044] Q. Then Mr. Hunter, after General Walker's speech on the monument, you said, as I remember, he started towards the westward?

A. Yes, sir, shortly after the speech.

Q. And were you some little distance behind me?

A. Yes, sir, that's correct.

Q. Were there other people around you behind him?

A. Yes, sir, that's correct.

Q. Were you—were there people in front of him, out in front?

A. Yes, that's right.

Q. All right. Where else? Were there any other people anywhere else?

A. There were people all over the place.

Q. What were they doing, the ones, we'll say, way off to the northeast quadrant of the intersection, of the circle?

A. To the northeast.

Q. In the northeast quadrant of the circle, what were those people doing? That's over towards the Fine Arts Building.

A. ~~Do~~ you mean in the lower part of the circle?

Q. No, way up high towards the northwest.

A. Could I go over here?

Q. Yes, go over and get your pointer so we can get [fol. 1045] straight. Do you find the flagpole?

A. That would be the northeast quadrant (indicating).

Q. What were those people in there doing?

A. Well, practically everybody over here was just standing around.

Q. All right. Then what were the people—

A. Scattered out all—

Q. —over in the northwest quadrant doing?

A. Northwest?

Q. Yes, sir.

A. Most of the people over here were participating in the throwing of rocks.

Q. All right. What was the size of the groups that were engaging in that activity?

A. In this section?

Q. Right.

A. Well, I think most of it was just individuals.

Q. All right. Then what was happening down in the southwest quadrant?

A. About the same as up here, as far as I know (indicating).

Q. Tell us what was happening in the southeast area and point out where you were as you went forward?

A. Well, I was right in here (from here to here indicating).

[fol. 1046] Q. All right.

A. I walked in this direction. Most of it was just—just walking around.

Q. Was that towards the flagpole?

A. Proceeding towards the flagpole.

Q. Did General Walker ever get out of your sight as he went in that direction?

A. No, sir. Every time I looked for him I could find him easily.

Q. How far towards the flagpole or in the area of the flagpole did he go?

A. I think he went right up to the flagpole.

Q. All right, what did he do?

A. All the times I saw him, he was just standing around there.

Q. Did he ever participate in any way in the activities of the crowd, so far as throwing things at the Marshals were concerned?

A. No, sir, not—nobody around me in this part of the circle was throwing anything at all. We were just standing around there.

I personally was watching to see what General Walker was doing.

Q. All right.

A. And you see, it's trees all around in here, especially [fol. 1047] around the flagpole (indicating), and you couldn't throw one if you wanted to—at least I couldn't.

Q. Okay. Go ahead.

A. Especially through the trees. I don't know exactly where I was when the tear gas that I ran from was fired but it was right in here around the sidewalk. It might have been on the sidewalk.

The tear gas was fired, they could throw it and it would roll along the ground or they could shoot it up above the trees and let it fall. The tear gas was fired.

I turned and ran back down in here, right in here (indicating).

Q. Did you see General Walker any more?

A. Yes, I stopped, looked back to see if I could see where he was, and he was still up around the center of the circle.

Q. He didn't leave then when you did?

A. No, sir.

Q. Okay. What did you do after that?

A. Well, most of the people that were in here turned and ran back in this direction and accumulated down in here (indicating).

I was right out in here in the bottom part of the circle.

I saw General Walker still standing up in here some- [fol. 1048] where (indicating) and people were just still coming back as the tear gas was fired.

I went on down into the street after I saw him up there. He stood around up there for a few minutes.

I went back into the street and the next time I saw him was right in here (indicating), he came walking down through here, and I recall two boys came up to him with another boy; they were helping him along, one of them had him—they had him just like this (indicating).

Q. Had who now?

A. Some boy had been shot in the leg. They had ripped his pants up the side and they came up to General Walker and said, "General, look what they had done to this boy."

And he said, "Well, let's see," said, "He needs to go to the hospital," or "put him in a car," he said, "Put him in a car and take him to the hospital," or something like this.

And I think they went on down here and it was a car there and I think that the boys put him in a car and left. That's the last time I recall seeing them.

And General Walker, who was watching these boys, walked on down this way. That's the last time I saw him.

I thought he was leaving and going back downtown.

And I went back up to the "Y", around the "Y", and I saw a boy standing right out here in front of the "Y", right [fol. 1049] on the corner of the "Y", with a notebook and a pencil.

And he was, he would write—I saw him write a note down and I went up to him and I said, I told him he's better get out of there, that he'd better get rid of his pen now because these people didn't like reporters.

And he said, "I'm on their side." I said, "Where are you from?"

And he said, "Texas," and I told him—

Mr. Gooch: If the Court please, we are getting far afield.

The Court: Yes.

Mr. Watts: All right.

The Witness: I'm sorry. So I went back to the dormitory.

Mr. Watts: I believe that's all. Thank you.

Cross examination.

By Mr. Gooch:

Q. Mr. Hunter, have a seat. I believe you have testified that you saw General Walker not too great a time before he made this speech on the monument, is that correct?

A. Yes, sir, that's correct.

Q. And when you saw him he was in the vicinity of the monument?

A. Yes, sir, he was right there in the street in front of the [fol. 1050] monument.

Q. Did you see him go west towards the flagpole with any group prior to the time he made the speech?

A. He went out into the circle but the only people with him was just a few people, mostly students.

Q. And they were walking west towards the flagpole?

A. Yes, sir.

Q. All right. Now, after that you saw him back around the monument shortly before he made the speech, is that correct?

A. Yes, sir.

Q. I believe you have stated that when the word got out that General Walker was there, or was going to make a speech—I may be in error on my words—that the crowd began to congregate around the monument, is that correct?

A. Yes, sir.

Q. How many people would you estimate congregated around the monument at the time General Walker was making his talk? I know it's—

A. Over 100, probably around 200 people.

Q. Probably around 200. And did they listen pretty well at the time he made his talk?

A. Yes, sir, most of them did, I think.

Q. Now I believe you have stated, or I'm asking you this question: Isn't it a fact that after General Walker finished [fol. 1051] his speech, that he said something to the effect, "Come on, let's go," or "Let's go up and see," and started towards the Lyceum Building?

A. Yes, sir, right after making his speech, he stepped down and people were still shaking hands with him and talking to him and he talked to a few of them and came over in the direction where I was and he says, "Let's walk up here and see what's going on," or something like that.

Q. And when he did, he started walking which way?

A. He walked out into the circle—well, he walked up the street a little piece, I believe, and then into the circle up towards the flagpole.

Q. And when he did that, what happened to this crowd that had been listening to him when he made the speech on the monument?

A. Well, some of them had already scattered out and the ones that had remained down there went out into the circle and went on up in that direction (indicating).

Q. You mean they followed him up in that direction?

A. Well, I was following him for—I can say that I was following him because I was, I wanted to see what he was doing.

Q. Mr. Hunter, do you remember when your deposition was taken down in Oxford?

A. Yes, sir.

[fol. 1052] Q. In March. By Mr. Watts. On Page 14:

"All right, continue with the narrative statement of what occurred after he finished his speech and got down off the monument."

And your answer; "After making the speech, I said to him—no, after making the speech, I said, he said, 'Let's walk up here and see what's going on,' or something to that effect. And so he turned and walked toward the Lyceum."

Did you make that answer?

A. Yes, sir, that's right.

Q. Was it true?

A. Yes, sir, that's right.

Q. Next question, "Did you see a big heavy-set Sheriff or someone that looked like a Sheriff with him?"

And you answered, "No, sir, I didn't notice."

Is that correct?

A. Yes, sir, that's right.

Q. "Mr. Watts: Continue then and tell us what you saw Walker do."

Answer, "He did walk toward the Lyceum and practically everyone that was in the crowd there at the bottom of the circle around the monument walked toward the Lyceum, also, and I was among that group."

Was that a correct answer that you gave in Oxford?

A. Yes, sir, that's correct.

[fol. 1053] Q. Does that refresh your recollection of what you saw there that night?

A. I don't know.

Q. Sir?

A. I don't know whether it does or not.

Q. Well, was that a true statement when you made it in Oxford on March the 13th, 1964?

A. Yes, sir.

Q. Now that, I believe you have testified that Walker, with this some 200 people behind him, got up near the flagpole, that a burst of tear gas was fired, is that correct?

A. Yes, that's right.

Q. And at that time you came back?

A. Yes, sir, most of the way.

Q. A lot of the crowd came back?

A. Yes, that's right.

Q. You looked back and General Walker was still standing there and hesitated some time before he came back, is that correct?

A. Yes, sir, it was a few minutes before he came back.

Q. Now the testimony that I have read to you, is that testimony true that you gave over in Oxford, Mississippi, on March 13, 1964?

A. Yes.

Q. Would you say that General Walker went westward [fol. 1054] any past the flagpole?

A. He could have, two or three steps.

Q. Did you say he did go past the flagpole in your testimony? At Oxford?

A. I don't recall.

Q. Well, would you say now one way or the other?

A. I say that he might have, two or three steps—

Q. All right.

A. —he might—I say the sidewalk there runs through the circle, right through the flagpole—

Q. That's right.

A. —two or three steps, give or take either direction.

Q. Now at the time you were in the vicinity of the flagpole, which might have been at it or some few steps past, you could see the group between the flagpole and the

Lyceum still throwing rocks, bricks and missiles at the Marshals, could you not?

A. I don't recall but I'm sure you could.

Q. Well, you just said that people up in that area, when you got up there, were throwing at the Marshals; that's what you just testified to?

A. Yes, sir, that's generally what was going on.

Mr. Gooch: All right. That's all.

Mr. Watts: That's all. Thank you.

The Court: I will excuse you, Mr. Hunter.

[fol. 1055] Mr. Watts: If Your Honor please, at this time we shall offer in evidence the deposition and testimony of Relman Morin that was taken here in Fort Worth on March the 7th, 1964.

RELMAN MORIN testified by deposition as follows:

Direct examination.

By Mr. Watts:

Q. All right, your name, please, sir.

A. Relman, R-e-l-m-a-n, Morin.

Q. Your profession?

A. Newspaper correspondent.

Q. For what period of time, Mr. Morin?

A. Well, since I was 18.

Q. Where were you born and raised?

A. I was born in Freeport, Illinois, but I was brought up in California, in Los Angeles.

Q. What place?

A. Los Angeles.

Q. Where did you go to school?

A. I went to Los Angeles High School and Pomona College and then did some post-graduate work in two universities in China.

Mr. Watts: Over to Page 16, next to the last question.

[fol. 1056] Q. Well, Mr. Morin, you have watched the balance of power shift militarily and psychologically from the hands of the free world almost into the hands of the enemy?

The Court: Just a minute.

Mr. Gooch: If the Court please, that's wholly irrelevant.

The Court: We are not going to permit that.

Mr. Watts: Let's see, maybe I was—Page 18, then.

Q. How long have you been employed by the Associated Press?

A. Thirty years this year—1934.

Q. Now as I understand, they are a cooperative news-gathering and disseminating agency?

A. That's correct.

Mr. Watts: Over to Page 20, Line 6.

Q. As a very expert newsman, you recollect that the news can be, or you recognize that the news can be slanted?

A. Of course it can.

Q. And it can be weighed?

A. Of course.

Q. And even the timing of news releases can affect the public acceptance and influence of that news?

A. That's right.

Q. Do any of the high-level AP personnel ever have conferences to discuss developments in the news and reactions?

A. Yes. We have two types: Every morning at 11:00 o'clock the Department Heads get together and that's primarily for coordination. In a big organization it simply—it happens that the left hand doesn't know what the right hand is doing.

And so before the day is very hard along, they get together and the general desk and the world desk and the sports desk and the out-going desks and the financial desk, and so on, all those, they get together because that news sometimes overlaps.

In other words, there is, as you can realize easily, a point where sports news and financial news overlap.

So they get together and that's primarily for the purposes of coordination so that everybody knows what everybody else is doing.

Then once a week the general manager has us all upstairs to the Board Room and there we talk not so much on an operational level as about what we are doing and what we ought to be doing and where something has gone wrong, to trace it down and find out why and where it's gone wrong.

Once a week the full-dress conference and every day the 11:00 o'clock more or less operational conference.

Q. So out of that, then, undoubtedly must come some [fol. 1058] organized concept of various important issues, so far as this group is concerned, doesn't it?

A. I am not sure that I know what you mean by that.

Q. Well, at the end of a conference, wouldn't you have some idea in mind of how, say, your boss is thinking?

A. Yes, and more important, he would have some idea in mind about how—what we are thinking.

Q. And if some of you people get a little too far in a direction that he doesn't fully concur with, why, you realize you are getting away from his trend of thought, don't you?

A. Yes, but his trend of thought is not inflexible, by any means. In other words, if you are discussing a particular thing, let's say a particular story that is being covered or something that you are planning for, he may take a point of view on it and you may well say, "Look, it just isn't like that and here are the reasons why not." Well now he can't know those things, let's say, that someone in the field knows about it. So in that case, he's not going to insist on any particular point of view and neither are we.

Q. And you individuals of the somewhat lower echelon influence him as well as him influencing you?

A. That's right.

Mr. Watts: Over to Page 23, Line 21.

[fol. 1059] Q. Mr. Morin, were you participating in the AP conferences when General Walker first became a national figure coincidentally with his relief of command in Germany?

A. Well, let's see, what was the date of that?

Q. That was the—in the spring of 1961?

A. Where was I then? Yes, the answer is yes. I was trying to remember, because in the spring of 1962, I went abroad to cover the Eichmann trial but that was '62. It was not the spring of 1961.

Q. As I remember, you, also, covered the Little Rock incident, didn't you?

A. Yes, I did.

Q. And General Walker was the commander of the Corps Area Headquarters in Little Rock at that time?

A. And a very good one, too.

Q. Well, thank you. And as such, he had been assigned the immediate command of the troops sent in by the government?

A. Yes, sir.

Q. And from your observation of the situation, there was absolutely no violence?

A. Well, there was violence, of course.

Q. Well, there was no violence that involved the Federal troops, was there?

A. Yes.

[fol. 1060] Q. There was?

A. Well, I don't know what you mean by "violence". There was the one instance where the man tried to take a rifle away from the paratrooper and he reversed it and caught him over the forehead like that (indicating) but that's the only case I seem to recall, if that's violence.

Q. By the term "violence," I mean—

A. You mean by a mass?

Q. No rioting or anything approximating the Oxford situation?

A. Oh, no.

Q. And that was so coordinated and controlled that the Government's mission was accomplished without any rioting whatsoever?

A. Yes, that's right.

Mr. Watts: Now over to Page 38, Line 11.

[fol. 1061] A. Oh, no.

Q. And that was so coordinated and controlled that the Government's mission was accomplished without any rioting whatsoever?

A. Yes, that's right.

Mr. Watts: Now, on page 38, line 11.

* * *

"Q. . . . Now then getting down to the Walker case, as such, what was the first you heard or first directive or order you had concerning the Oxford incident?

A. About 11:00 o'clock on the Sunday morning when Meredith was to be installed there, I had a call from one of the editors, one of the Sunday editors, and he said, "Stand by or to," not to Oxford—but I'll explain this in a moment, but, "to New Orleans."

And later in the afternoon, I think it would be around 3:00 or 4:00, the then executive editor of the AP called me and said, "I want you to go to New Orleans." Now the reason for that was that Oxford is a small town, no possible facilities there for setting up all the paraphernalia in terms of printers, I mean teleprinters, the wire photo setup and all the rest of it, so everything was going from Oxford to New Orleans. That was the way we were relaying it out of there.

And I said at that time, "Well, I would prefer to go to [fol. 1062] Oxford rather than to do a desk job in New Orleans." And he said, "All right, I think I am inclined to agree with you."

So the next thing was then to try and get a flight and by this time Sunday—I'm going beyond your question but—

Q. That's all right.

A. So I began phoning airlines and finally—I think the flight was out of New York at something like 11:20 at night, for Memphis, and that's the one I took.

Q. That was the night of September the 30th?

A. Well, if that's the date. It was the Sunday night that Meredith was installed in Oxford and—

Q. And you left New York at 11:20?

A. That's my memory of it. I could check the flight.

Mr. Walker: A. M.?

A. No, no, 11:20 P. M. I didn't get the definite word to go or, rather, where to go, Oxford or New Orleans, until about 3:00 or 4:00 o'clock in the afternoon.

By Mr. Watts:

Q. And, roughly, what time did you arrive in Memphis?

A. I would say 4:30 or 5:00.

Q. What did you do then?

A. Well, I had phoned down there and told them to have a rented car reserved for me because I felt sure that there [fol. 1063] would be a lot of correspondents coming and there might not be any cars.

Q. Were you alone?

A. No, I met Warren Rogers, who was at that time of the Herald Tribune, on the airplane and he found that he couldn't rent a car and so he rode to Oxford with me.

Q. Did you and Mr. Rogers discuss Walker at all at any time en route to Oxford?

A. I don't think we knew he was there.

Q. You had not—

A. I'm pretty sure we did not.

Q. You had not seen the national publicity where Walker called on, over the radio, for people, "To bring their flags, tents and skillets," and come to support Governor Barnett?

A. Oh, I had heard that one, yes.

Q. Sir.

A. I had heard that one. But in connection with what was going on in Oxford, I don't believe that I knew at the time that General Walker was there.

Q. I understand. And you and Mr. Rogers had no conversation at all on the way to Oxford concerning Walker?

A. No—well, I am 99 and 9/10 percent sure that we didn't. I know I went to sleep on the airplane. And when I filled out the forms for the rent-a-car in Memphis, the [fol. 1064] woman behind the desk said, "They have already killed three people down there tonight," as she put it. It was early morning, of course.

So we were naturally more concentrated on that. But apart from that, my memory of it is that I didn't know General Walker was there.

Q. Who drove?

A. I did.

Q. What time did you get to Oxford?

A. I'm going to be a little vague about this but not purposely: I would think that it was about 7:00 o'clock. It might have been a little earlier.

Mr. Walker: A.M.?

A. A. M., Monday morning?

By Mr. Watts:

Q. All right. I wish you would take it from there, to save my interrupting you and save some time, and give us a narrative statement of everything you did from there on, with whom you talked, who you saw.

A. Yes, sir.

Q. What you did.

A. Well, the first thing was coming down the road—it isn't a highway after you turn off the main turnpike—you came to that section of the University campus where there are exits there and we saw, I believe it was, state troopers but I'm not too clear about that. I think it was state [fol. 1065] troopers who were stationed in front of that

entrance. And we stopped and got out and questioned them there a little while.

They had very little to tell us because I believe they had been there all night. They weren't able to tell us very much or they didn't want to, I don't know which.

So we then went to the Ole Miss Motel where our people were and I believe Rogers and some of the Herald Tribune people were there and, in fact, the entire motel, as I recall, was at that time occupied by newspapermen.

Q. Now, you mentioned "our people." Whom did you see that you recognized as some of your people?

A. Ed LeBreton, primarily. He's an experienced man from Washington whom I knew best, in short. I don't recall that I knew any of the others except by name before that.

Van Savell was there. The man from Memphis who got shot, I think, was there. I was interested and curious about his wounds, and so on. He got shot in the back, you know, buckshot.

Q. Was that Bill Crider (phonetic)?

A. Crider, that's the name I was trying to recall. So the first thing I said, "I would like to go to the campus. Is that possible?" And they said, I think, it was.

[fol. 1066] So we piled into the car, LeBreton was driving, since I wasn't familiar with the town and what-not. I was in the front seat. Savell was in the back and there was a fourth but I don't remember who it was. It might have been a photographer.

We drove to the campus and parked up there outside and walked up through that area where the action had taken place the night before, noticed the debris and the smell of the tear gas, at the monument, empty tear gas cartridges and all that other detail.

Meanwhile, in the car coming up there, I asked these fellows details, details, details as rapidly as I could get them as to what happened on the night before.

Q. Now, let's get identified a little further. That was LeBreton and Savell and—

Q. The fourth person I just don't know. He might even have been a photographer. My memory of it is that the car was filled but I can't tell you who the fourth person was.

Mr. Watts: At this point I want to hold the remainder of Mr. Morin's deposition and read excerpts from the deposition of Van H. Savell.

Mr. Gooch: If the Court please, I presume he can make that request, but I would rather go on with one.

[fol. 1067] The Court: Yes, sir, he has a right to stop and you may offer whatever you want on cross there.

Mr. Gooch: No.

Mr. Watts: Now, turn to page 2 of the deposition of Van H. Savell.

Mr. Address: All right.

DEPOSITION OF VAN HENRY SAVELL

Q. Your name, please?

A. Van Henry Savell.

Q. Where were you born?

A. Greenwood, Mississippi.

Q. Have you been a resident of Mississippi all of your life?

A. No, sir, I have not.

Q. Where else and when?

A. Springfield, Missouri, Louisville, Kentucky, Orlando, Florida, and New Orleans, Louisiana, Birmingham, Alabama, and Kansas City.

Q. What schools did you attend?

A. I went to school, grammar school in Vardaman, Calhoun City, Merigold, Mississippi, and I went to high school in Luka, Mississippi, and college at Mississippi College, in Clinton, Mississippi.

[fol. 1068] Mr. Watts: Now, page 3, line 8.

Q. And your age?

A. Twenty-two.

Q. Are you married?

A. Yes.

Q. And your wife's name?

A. Shirley Anne Sally Savell.

Q. This is your only marriage?

A. This is.

Q. When and where were you married?

A. June 21, 1963, in Greenville, Mississippi.

. . .

Mr. Watts: Line 18.

. . .

Q. Where did you have your college training?

A. Mississippi College, Clinton, Mississippi.

Q. What was the nature of that course?

A. It was for one year only.

Q. You are not then a graduate?

A. No, sir, I am not.

Q. What was the course of your studies?

A. I took basic course, that all freshmen take, on English and history and zoology and physical education, and that was it.

[fol. 1069] Q. Have you had any formal education in journalism?

A. No, I have not.

Q. What background then do you have, just on-the-job training?

A. On-the-job training.

Q. What is the nature and extent of that?

A. I wrote sports articles for a national weekly newspaper in Luke when I was in high school, and I was hired by the Clarion Ledger in Jackson, Mississippi, about Thanksgiving of 1960 I believe, and I worked continuously for that paper until Easter, 1961. At that time I was employed by the Associated Press in New Orleans until about the middle of October, 1961, at which time I resigned be-

cause I was only hired as a part-time placement, in the first place, and then I was hired by the Montgomery Advertiser in Montgomery, Alabama, and I worked for them until January 21, 1962, at which time I was again hired by the Associated Press, in Jackson, Mississippi, and I have been with the Associated Press ever since.

Q. Have you ever had any experience of any kind in general reporting, prior to the time you went to work for the AP?

A. Some, yes.

Q. What was the nature and extent of it?

[fol. 1070] A. Some was with Clarion Ledger, but primarily in the sports department.

Q. Did you form an acquaintance while you were working with that paper with somebody connected with the AP?

A. Yes.

Q. With whom?

A. All three members of the Associated Press: Ben McCarthy, James Sigus, spelled S-i-g-u-s, and Doug Starr.

Q. Did you become acquainted with any of the other personnel of Associated Press who were outside of Jackson at that time?

A. Not to my knowledge, I don't think so, not until two weeks after I was hired by AP.

Q. Who hired you?

A. I was hired or interviewed by Mr. Davis, chief of the bureau in New Orleans, and he recommended by hiring, and as normally, it was approved by New York.

Q. Was he the only individual out of the New Orleans office with whom you had any contact before you went to work for them?

A. No, I had visited one of the other fellows the day I was interviewed by him.

Q. Who was he?

[fol. 1071] A. His name is Robert Rowand, an AP newsman in New York.

Mr. Watts: That must undoubtedly be a misprint, or a mistake; it was New Orleans.

Mr. Andress: It says New York here.

Mr. Watts: It was corrected to New Orleans.

. . .

Q. What was his official status?

A. Newsman like I was. Strictly a visit, nothing about business.

Q. What was your office set-up in Jackson, as you observed it between the Clarion Ledger and the AP office?

A. We were in the same building, second floor. During the day hours, our office was actually in the Jackson Daily newsroom, which is connected with the Clarion Ledger, and during the night hours, our office was connected with the newsroom of the Clarion Ledger.

. . .

Mr. Watts: Skip the rest of that. Just go to line 24.

. . .

Q. You went to New Orleans when?

A. I went to New Orleans about, I believe it was April 2nd.

[fol. 107'2] No, not April 2nd, but it was around Easter time, if I am not mistaken, or right after Easter, and I believe this was in April.

Q. What year?

A. 1961.

Q. Did you receive any course of training for the increase in efficiency of your duties while you were in New Orleans?

A. The normal inside office training, yes. I was under observation of others, and I was kept under 'wraps' for a certain amount of time, until I felt I could take anything by myself without any help.

. . .

Mr. Watts: Now, to page 8.

. . .

Q. So we will all be instructed about the same thing, from your experience and contacts, you have been very familiar with the Walker case, have you not?

A. Well, fairly familiar, yes.

Q. Do you remember the 1st of October, or the 2nd and 3rd of October, 1962, after General Walker was ordered or committed to the prison hospital in Missouri?

A. I remember something like that happened, yes.

Q. From the vast headlines coming across the press of the nation, that came to your attention, that Walker had [fol. 1073] been arrested for insurrection, sedition and insulting public officers?

A. No, I didn't.

Q. You didn't read anything like that?

A. I didn't have time to read the papers.

Q. You say you were not familiar with it?

A. No, I didn't read the papers.

Q. Did you ever hear it on the radio or television or anything of that kind?

A. No.

Q. You were familiar with your reporting, were you not?

A. Yes.

Q. And set out considerable emphasis on the fact that Walker had led a charge and had been arrested, didn't you?

A. That is what I reported, yes, sir.

Q. That's right. Were you in the area on the 21st of November, 1962?

A. On the 21st of November—

Q. When they had a hearing in Oxford, with respect to Walker's mental capacity?

A. Yes, I was.

Q. Did you attend that hearing?

A. No, I did not.

[fol. 1074] Q. Did you have any contact with any of the news releases after that hearing by Associated Press?

A. To my knowledge, I didn't read any of them, no, sir.

Mr. Watts: Now, then, skip over to page 111, line 10.

Q. Could you fix the time the tear gas was fired?

A. Of my own personal knowledge, no.

Q. From subsequently acquiring information?

A. About 7:50.

Q. About 7:50. All right. What occurred then?

A. I ran back to the phone and made my report, said that tear gas had been fired, and left immediately, and that's all I said.

Q. This is report number 5?

A. I guess.

Mr. Watts: Now, then, turn over to page 139, line 15.

Q. Go ahead.

A. Then I heard a comment behind me to the general effect, and I don't remember the exact wording, "Here is [fol. 1075] General Walker, here comes General Walker," and I turned and I saw striding fifteen yards behind me, General Walker.

Q. Describe that.

A. He was walking in very long strides.

Q. In what direction?

A. In a westerly direction, up toward the Confederate statue.

Q. Where was he at that time when you first saw him?

A. About fifteen yards east of the intersection, right there where the Circle meets University Avenue.

Q. On which side of the road?

A. More or less in the middle.

Q. Now at this point, let's put an X with a 2 after it,—

Mr. Watts: May we agree, Mr. Gooch, or Mr. Cravens, that I will go up and point out on the big board where it is?

Mr. Cravens: Yes, sir.

Mr. Watts: I will point out to the Jury that at this point the witness, Van H. Savell, put an X at this point right here (indicating).

Mr. Address: What is that point?

Mr. Watts: That X is the point where he first saw [fol 1076] Walker.

Mr. Address: Where is it located, please?

Mr. Watts: Located slightly westward of the monument.

Q. Now, at this point, let's put an X with a 2 after it, where you are. We will put this on Exhibit 7-A, put where Walker was with a W, with a ring around it.

All right. Was anyone with Walker?

A. I didn't recognize anyone with him. There were students and people beside him, mostly young people.

Q. How many?

A. About twenty-five or twenty, in the general area here, back like this (indicating).

Q. Did they appear to be walking with him, or standing, or moving at a definite pace?

A. They appeared to be walking with him. They were hollering "Here is General Walker," and so forth.

Q. Now, how was he dressed?

A. He had on a black suit, black shoes and a white tie, white shirt, I mean a black tie, and a white or light beige Texas hat.

Q. What did you see him do?

A. Walk up to this area, and just sort of stood around looking.

[fol. 1077] I was just to the north of—

Q. Roughly, then, you were due east of the monument?

A. Due east, yes, I was.

Q. I'm going to move this line here, which represents the south side of the University Avenue, for the reason that the monument, as I remember it, is just about in the center.

A. You will have to move me over a little bit then.

Q. All right.

A. I was standing right next to the curb, street, right over the curb, and I was standing right next to this curb.

• • •

Mr. Watts: Drop down to line 17.

• • •

Q. We will call this X-2, to distinguish it from the other position you occupied. Walker then was roughly in the center of the street approaching the monument?

A. Yes, sir.

Q. The monument is roughly square, isn't it, or rectangular?

A. The base is square.

Q. I have drawn here a square which represents the monument, and you say Walker passed to your right as you [fol. 1078] faced west?

A. He more or less stopped on my right, and I moved toward him.

Q. How far from you was he?

A. When he stopped, he was, oh, eight or ten or fifteen feet, ten or fifteen feet from me.

Q. Did you say anything to him?

A. No, sir, I did not.

Q. Did he say anything to you?

A. No, sir, he did not.

Q. Did you hear him say anything to anyone?

A. At that time, no, sir.

Q. What occurred then?

A. He stood there looking around and I moved closer, I was probably within five or six feet of him, and this same person with the Confederate flag and multi-colored shirt, mostly red, said "General, will you lead us to the steps," and Mr. Walker made no comment, he sort of scratched his head (indicating), or rubbed his head a little, like this (indicating), and moved his—his head went back a little, and he lowered his head, in my opinion he looked like somebody who might be thinking, and he was like that for several

seconds, about forty or fifty seconds, just didn't say anything, was very quiet, in fact the students got restless behind and began to chant "Come on, let's go. There is [fol. 1079] General Walker, he is our moral support, let's go." And Mr. Walker raised his head and looked this fellow squarely in the face, and nodded his head. Up to this time Walker had said nothing. I hadn't heard him say a word.

Q. Go ahead.

A. About this time they appeared to—well, Mr. Walker took a couple of steps forward, and this boy was over to his left, and some of the group, sort of moved up behind, there was quite a large group behind, and they took several steps.

Q. At this time was there any personnel west of the monument?

A. West of the monument, I didn't see anyone. There might have been one or twenty, but I didn't see them.

Q. Had all the crowd then moved back into the street east of the monument?

A. Yes, that's my—

Q. Any people at all north of the Circle or northwest of the Circle?

A. In that direction, I couldn't tell.

Q. How far could you see in that direction?

A. I couldn't see very far. There were no lights.

Q. How far could you see toward the Lyceum?

A. I could see the Lyceum Building.

[fol. 1080] Q. Could you still see people in front of the Lyceum Building?

A. Outlines of people, yes.

. . .

Mr. Watts: This is line 3, page 144.

. . .

Q. You moved then about half the width of the street to the north then?

A. Yes. I was about the center, where General Walker was.

Q. Where was Walker from you?

A. Oh, four to six feet from me, just to the north of me.

Q. All right. Were there any people between him and the monument at that time?

A. This one fellow who made the comment to him.

Q. Were Walker then and this fellow alone out there, ahead of the main crowd?

A. Repeat that.

Q. Were Walker and this one fellow now alone and to the west of this main crowd?

A. No.

Q. Describe the location then.

A. The fellow was out alone, up ahead of the crowd, but the crowd had closed around Walker on all sides, except the [fol. 1081] one where this fellow was, and this fellow was standing about three or four feet away.

Q. From Walker?

A. West of Walker, he was.

Q. Go ahead.

A. And as I said, they took several steps forward, and then a portly, neatly dressed fellow of about forty-five walked up.

Q. Did he say anything?

A. He walked up to Mr. Walker and introduced himself.

Q. Could you remember what he said?

A. I didn't understand his name, no, sir.

Q. Did they shake hands?

A. Yes, they did.

Q. All right.

A. And this fellow, I noticed had on a deputy sheriff's badge. They talked for a moment, and then this boy sort of made a motion, and several people got around, and there was quite a hubbub in there, but I couldn't tell what was going on. I was still four or six feet away, and everybody talking at once there. This was only for several minutes.

[fol. 1082] Q. The portly gentleman with the sheriff's badge seemed to be involved in the charging?

A. In the charge, well, I hadn't seen him before.

Q. You had not seen him prior. Go ahead.

A. As I said, they were talking quite low, and then everyone was talking at the same time, and I just sort of kept an eye on him, and I didn't hear Walker say anything. I just keep watching his mouth, and I didn't see him say anything, and then they sort of opened up.

Q. Did he have his hat still on the back of his head, or did he put it back?

A. He did actually push it back, to the back of his head, but then sort of moved it when—

Mr. Cravens: Just a minute. "He did not. . . ."

Mr. Watts: "Did he have his hat still on the back of his head or did he put it back?"

Mr. Cravens: "He did not. . . ." Should be a "not" in there, he did not.

Mr. Watts: Go ahead then. Put a "not" in there.

A. He did not actually push it back, to the back of his head, but then sort of moved it when—

Q. In other words, he rubbed his brow?

A. Yes. He didn't put it on like a cowboy would.

Q. All right.

A. The group backed up or away from the front of Mr. [fol. 1083] Walker, and this boy took his right hand and grabbed hold of the general's left arm, and another person on the other side did the same thing.

Q. Was that the deputy sheriff or someone else?

A. I'm not certain whether it was or was not. I really don't know.

Q. All right.

A. But anyway, they started walking.

Q. Which direction?

A. At that time they were walking due west and they walked around the monument.

Q. Which direction?

A. To the north of the monument, and then they walked straight toward the Lyceum Building for 10 or 15 yards.

Q. Was that on the sidewalk or on the grass?

A. They were on the grass.

Q. North or south of the walk?

A. North of the walk.

Q. At what rate of speed were they walking?

A. Normal pace.

Q. Did Walker have any rocks or weapons or any missiles?

A. No, sir.

Q. Then what happened?

A. After Walker went ten or fifteen yards, they sort of veered to the right.

[fol. 1084] Q. That would be to the north?

A. Yes, sir. They were walking to more of a northwesterly direction.

Q. All right. Where were you at this time?

A. I was just to the right of Walker.

Q. Following them?

A. Almost abreast of him.

Q. From the time you saw Walker come up to this point, had you seen anyone else you knew?

A. No.

Q. Any other newsman?

A. No.

Q. Had you up to that time seen the UPI newsman Kettner anywhere?

A. No.

Q. Continue.

A. We walked for about ten or fifteen yards, and as I say, they were—then veered to the right and walked in a circular manner, more or less bordering on the Circle.

Q. How close to the curb of the Circle?

A. About 25 yards from the circle—

Mr. Gooch: Feet.

Mr. Watts: Feet?

Mr. Cravens: That's been changed from "yards," to "feet".

[fol. 1085] Mr. Address: Mine isn't. Go ahead.

Mr. Watts: That should be about 25 feet.

A. About 25 feet from the circle but walked around until they were almost even with the flagpole.

Q. All right.

A. And then sort of veered back toward the center of the circle.

Q. Did they walk straight or—

A. They came, just went toward the sidewalk.

Q. Due south?

A. No, not due south, just more or less going southwest or south-southwest.

But they went toward the sidewalk, didn't reach it, and then turned directly toward the marshals, and at this time Walker and the two fellows that had hold of his arms were between the sidewalk or almost even with the sidewalk and street.

Q. And by that you mean the east-west sidewalk from the flagpole to the monument? Well, I will draw a line from the flagpole to the monument, which will represent the sidewalk. Now, where were they at this point?

A. Right in here.

Q. Would you put a W and circle it? All right. And we will put a 2 to the side of it.

Mr. Watts: And may we agree that the W with the 2 [fol. 1086] around it that the witness put is along in this area here (indicating)?

Mr. Gooch: In that area.

Mr. Watts: In the northwest quadrant?

Mr. Address: And about the center of it.

Q. Would you say that was a third of the distance from the flagpole to the Lyceum Building?

A. No.

Q. Would you say the distance would be a fourth?

A. I doubt if it was that far. They were still about forty or fifty yards away from the Lyceum Building.

Q. Then what happened?

A. They walked in this direction, like this (indicating). They walked toward the Lyceum building in a westerly direction.

Q. Now did this young man who took hold of Walker's arm take a position just east of the monument, or not releasing his arm until he reached the position of W-2?

A. He didn't release his arm.

Q. What about the man on the left, was he holding onto Walker's arm, too?

A. Yes.

Q. And the three of them went along there, as you have described?

A. Yes.

[fol. 1087] Q. Were they in step?

A. I didn't notice if they were in step.

Q. Was anything said by anybody?

A. Mr. Walker walked straight ahead, with his head straight. I didn't see him look to either side, I didn't hear him say a word. As far as I know, he had not said anything.

Q. He said nothing that you heard?

A. Nothing.

Q. Go ahead.

A. They walked about 10 or 15 yards in this direction, in a westerly direction.

Q. At that time had there been any tear gas fired?

A. No.

Q. From the time you saw Walker start from the monument area to this point?

A. I didn't see any.

Q. You saw them walk 10 or 15 yards toward the Lyceum?

A. Yes.

Q. And then what happened?

A. Then when they were about 70 or 75 yards from the Lyceum Building, then this tremendous group that was behind them—

Q. Was this group bigger than the group the whole day?

A. Bigger group, that I saw.

[fol. 1088] Q. All right.

A. They threw all of their rocks, small bricks or broken bricks and glass and stakes, and so forth.

Q. Where was Walker and these two other men at the time these bricks and things were thrown?

A. At the very front of the group.

Q. How far was it from them to the nearest man to their rear or east?

A. Behind them, about two or three or four feet.

Q. Walker and the two men were out in front of the distance you mentioned?

A. By that distance, yes.

Q. Then what happened?

A. They threw all of their things, as I said, and turned, and the tear gas hit in the middle or else in behind us, and it was quite heavy.

Q. Before or after the rocks were thrown?

A. After the rocks were thrown.

Q. All right.

A. And I watched as both these fellows let loose of Mr. Walker and turned. Mr. Walker turned and sort of ducked down, like this (indicating), and took off running, and so did the other two fellows, and so did I, and so did everybody else.

Q. Which way was Walker running?

[fol. 1089] A. Directly to the east.

Q. That would be how far north of the sidewalk connecting the monument and flagpole?

A. About 125 yards.

Q. About 125 yards?

A. About a hundred and twenty-five yards from the monument to where he turned when he started running.

Q. No, I believe you misunderstood my question. You say he ran directly east. Now, how far was the line that he was following as he ran north of the sidewalk between the monument and the flagpole?

A. I didn't have time to estimate it, because I was running, too.

Q. Would you say half the distance to the street and circle, or a third?

A. I don't know.

Q. Would you say five yards or ten yards?

A. I couldn't say. I didn't see the sidewalk.

Q. Where were you with respect to Walker?

A. When he turned to run, I turned with him. I had a towel with me so the tear gas was not as bad for me.

Q. Did he out-run you or you out-run him?

A. He ran several steps and I ran, and I didn't see him again for about 10 or 15 seconds.

Q. When he started to run, what direction was he from [fol. 1090] you, east or west?

A. He was to the east, or west of me. No, he wasn't either.

Q. Where was he?

A. He was to the south of me.

Q. You were directly on his right then?

A. Directly on his right, yes.

Q. Were you on ahead of the crowd, then?

A. I was at the time he turned, yes.

Q. Did you ever see Walker throw a rock?

A. No, sir.

Q. You still didn't see any other newsmen involved in this incident, that you knew?

A. No.

Q. Did you see anyone you knew during this or during the last few minutes that you described?

A. No.

Q. Did Walker leave you as he started to run, or did you keep up with him?

A. I didn't see him after he ran three or four steps, until I was back down at the monument.

Q. What happened then?

A. I heard him make some remark about "Well, we'll get together and charge again," some comment or something

about students, and "We will charge again, the group will [fol. 1091] charge again." I don't remember what the exact words were.

Q. Now this was down at the monument?

A. He was still running, or he wasn't running at this time, more or less walking fast or trotting, but out of breath, appeared to be, and I was out of breath, and he didn't make any comment to anyone in particular, just made the comment.

Q. Was anyone with him at all other than these two individuals concerned?

A. They were not with him. They let loose of his arm.

Q. You mentioned some individual who introduced you to Walker at the motel. Did you see him from the time Walker arrived until after the incident you described here?

A. I haven't seen him since the time at the motel.

Q. Would you say that he was not with Walker as Walker came on the campus?

A. No, I wouldn't say that.

Q. Now where is this last location you are talking about, when Walker said, "We will charge again"?

A. We were in the general area of the monument, more or less to the northwest, about in here (indicating).

Mr. Watts: May we agree that that is a point apparently about, oh, I would say ten yards northwest of the monument?

Mr. Gooch: Yes.

[fol. 1092] Mr. Address: I think it is northwest, yes.

Q. Put a 3 in there.

A. All right.

Q. Then what did you do?

A. As soon as he made the comment, I turned and ran to a phone.

Q. What direction did you follow?

A. A different one from any I had taken before. I ran directly north or a little to the northwest of the monument, and I ran between the YMCA and what I think is the Fine

Arts Building, and I ran near the girls' dormitories, into the valley back there.

Q. North of the Fine Arts Building?

A. Yes, ran by Meek Hall, which is down the valley, and the tear gas was quite heavy down there, but I made it back up to the dormitory, which I pointed out earlier.

Q. And you made that, and did you make a telephone report there?

A. Yes, I did.

Q. Now this then would have been the fourth charge you witnessed?

A. Yes, sir.

Q. To whom did you make that report?

A. I really don't know.

Q. What was the time of that report?

[fol. 1093] A. Somewhere around 9:00 o'clock, I wouldn't know.

Q. What was the time you saw Walker arrive on the campus?

A. I would estimate it about 8:45.

Q. What period of time would you say it was between the time of 8:45 when he arrived and the time that he reached the furthest westward penetration toward the Marshals?

A. Well, at that time my idea was not to estimate time, but rather to keep my eye on him and see what was going on. I didn't pay any attention to the time whatsoever. It couldn't have been more than 15 minutes.

Q. Have you since talked to anybody anywhere at any time who purports to have seen the same thing you did?

A. No, sir, I have not.

Q. Have you made an effort to do so?

A. No.

Q. Have you been instructed by anyone connected with the Associated Press to endeavor to find some other person who also saw the same thing you reported?

A. No, sir.

Q. What was the text of the report you made on this occasion to the New Orleans office?

A. I said that General Walker had appeared on the campus, and I described, as I have to you, the chronological order in which he arrived, and the things that occurred, [fol. 1094] and then I described the fact that a wave of people, numbering in my estimation about 1,000, had made a charge or assault, I don't know what word I used, but they approached the Lyceum Building and got to within an estimated 75 yards, and that General Walker was in the forefront of this group, with these two other persons holding his arms, but Walker was a half step behind—

Mr. Gooch: Ahead.

Mr. Watts: That's been changed from "behind," to "ahead".

Mr. Andress: A little difference.

A. But Walker was a half step ahead and that rocks and bricks and stakes and glass bottles had been hurled toward the marshals, that we were repulsed by a barrage of tear gas, that General Walker had turned and run back toward the monument, and that then I turned and that he had made that comment about the fact that the students or the group would regroup and charge again.

Q. That is not exactly what you told us a moment ago.

A. I don't remember, because I never wrote that comment down. I was running, I didn't have time, with a big news story right there, to write any comment down, and I never gave a fact quote on that remark at any time. I said that he had said that the students or the people would regroup, and I don't at this moment remember the exact [fol. 1095] words that he used. I know he used the word "students".

Q. He said the students would regroup and charge again, is that your language now, that you think he used?

A. I don't know, but he said the students would regroup, and he used his own self in the same phrase. He gave me the impression that he said that he and the group would

regroup and charge again, or the students would regroup and charge again, and used himself in the same type of sentence.

Q. What distance did you cover from the monument to the Perkins room to make that report?

A. More than an eighth of a mile, probably less than a quarter of a mile.

Q. What floor was Perkins's room on?

A. The second floor.

Q. You went up a flight of stairs?

A. Yes.

Q. Were you out of breath when you got there?

A. Yes, sir.

Q. Was the line open?

A. Yes, sir.

Q. Was someone waiting at the other end?

A. Yes, sir.

Q. Do you know who that was?

A. No, sir, I do not.

[fol. 1096] Q. Did you ask them—

A. I knew at the time who it was, I could tell by the voice, but I don't remember.

Q. Could you fix that time?

A. Sometime around 9:00 o'clock, to the best of my knowledge; depending. I estimate there was probably a 15 minute lapse between the time I saw Walker and the time I got on the phone, so it was about 9:00 o'clock.

Q. Did you hear any part of the President's speech?

A. No.

Q. Do you know he had made a speech?

A. I knew he had planned to.

Q. When did you first learn that he had made one?

A. The next afternoon I was told he had made a speech.

Q. All right. You made that report. Now what did you do then?

A. I made the report and went back to the area.

Q. How long did it take you to make that report?

A. About three or four minutes, something in that area, I don't know.

Q. Now by my figures here, from following your testimony, that is the eighth phone call you made, that the fifth call you made from Perkins's room. What did you see when you came back to the area?

A. As I got to the area, I saw Mr. Walker standing on a [fol. 1097] ledge of the Confederate statue.

Q. What was he doing?

A. He was talking.

Q. Had you at any time prior to this seen a young preacher, Mr. Duncan Gray?

A. Many times I had seen him, yes.

Q. Had you seen him that evening on the campus?

A. No.

Q. Did you see him at all that evening on the campus?

A. No, sir.

Q. Then when you returned, Walker was on the base of the Confederate statue?

A. Yes.

Q. Was he alone?

A. There were students around.

Q. Was there anyone else up on the statue with him?

A. No, sir.

Q. Could you hear anything he was saying?

A. Yes.

Q. What did he say?

A. As I saw him, I heard the word "Cuba," I heard him say "Cuba," and I continued running to the area, and he sort of lapsed for a moment, or a few seconds, didn't say anything.

Q. Wait a minute. From what direction were you approaching?

[fol. 1098] A. I was approaching from the northwest, or northeast, more northwest.

Mr. Gooch: That's been changed to "north".

Mr. Watts:—"more north"?

Mr. Gooch: "I was approaching from the northwest, or northeast, more north."

Mr. Watts: As a matter of information, who made these changes?

Mr. Gooch: Savell.

Mr. Cravens: The witness.

Mr. Gooch: Wasn't me because I wasn't there.

Q. What was the size of the group of people around him at that time?

A. Several hundred.

Q. How did it compare with the group that participated in the alleged charge that you have described, which was the fourth charge?

A. The people in the area of Walker were smaller, but there were more than that, a thousand people within a hundred fifty or two hundred yards of him.

Q. As you came back, where were you from this north curb of the oval, as you came eastward?

A. As I came eastward from the north curb, I was running on the grass, six or seven or ten yards from the curb.

Q. Where did you enter the oval?

[fol. 1099] A. At the street, where the YMCA is, the building here, that's the Fine Arts Building.

Q. Had you again come from behind the Fine Arts Building?

A. That's correct, sir.

Q. And you entered somewhere roughly near the place that we have marked X-1?

A. Yes.

Q. As you approached on the scene, you heard Walker say something about Cuba?

A. I heard the word "Cuba".

Q. Did he have his hat on at that time?

A. I guess he did, yes, sir.

Q. What next did you hear him say?

A. I heard him say something about somebody, he made the comment about somebody had betrayed Mississippi.

Q. Somebody had betrayed—

A. Yes.

Q. Do you remember who he said?

A. He didn't say who, he said, "Somebody has betrayed you!"

Q. In other words, he used the words "Somebody has betrayed you"?

A. Yes.

Q. Go ahead.

[fol. 1100] A. And immediately there were comments, "Who, who?" And he didn't at first make a comment, just "Governor Barnett".

Q. What comment?

A. He just said "Governor Barnett", but it was his voice, I was within ten feet of him at this time.

Q. Which direction were you from the statue?

A. To the northeast, in the road just off the curb.

Q. Where was he from the statue?

A. On the north side of the statue.

Q. Facing to the north?

A. No, facing to the east.

Q. But he was standing at the north side of the statue?

A. Yes.

Q. The statue then was on this right?

A. Yes, more or less.

Q. Go ahead.

A. And he stood there, he made this comment, almost inaudible, it was inaudible to most people, about Governor Barnett.

Q. What period of time—

A. He made this comment about Governor Barnett, in a low voice, and I heard it, and then he stopped and leaned over and talked to a fellow, I don't know who the fellow was, and there was a period of time when he was talking to this fellow, and leaning on this fellow's shoulder, and [fol. 1101] then he reared back up and said "Birdsong, Birdsong has betrayed you."

Q. Is that all?

A. No, that is not all. Then he made a comment about "We can win," or "You can win." If you don't think you can

win, go home, leave the university. But we can win." Then he made a comment about "Keep protesting. You may not win, but you will be heard." And he said "This is a dangerous situation. You must be prepared for possible death. If you are not, go home now." When he made that comment, I immediately turned and left and ran for the phone.

EXCERPTS FROM MORIN DEPOSITION

Mr. Watts: All right. Now, if you will, return to the Morin deposition, Page 43, Line 15.

Q. Now let's get identified a little further. That was LeBreton Savell and—

A. The fourth person I just don't know. He might even have been a photographer. My memory of it is that the car was filled but I can't tell you who the fourth person was.

Q. All right, sir.

A. So during that ride there, they would tell me something and I would ask a question, and so on, and then when we got up to the campus, I don't think we drove on. I think we stayed, parked outside the gates and walked on up there, all the way to the Lyceum Building, the monument.

[fol. 1102] I tried to ascertain, for example, how far forward the students had gone that night in relation to the Marshals and, of course, in the dark I don't think that they were able to tell me with any exactness but we paced it off as well as we could and that was about the size of it.

Then we drove back from there. That took, I would think, a half to three quarters of an hour and we drove back from there to a lunch counter sort of on the outskirts of town.

We came to it before we actually got into town and we stopped there for breakfast.

Then I dictated that story that Little Rock was a skirmish, I believe it begins, and then we went out into the town again, into the streets, up to the square, saw—

Q. I wish you would outline to us everything that Savell told you from the time you first arrived until the time you are speaking of now, after you left the campus?

A. Well, I don't know that I can do that.

Q. Only with regard to Walker; I mean I would emphasize with regard to Walker.

A. Well, the first thing that I asked about was those two people who were killed, the circumstances of their deaths. That was the thing that—in fact, I remember saying, “Well, I have been told that there were three,” and they said, “No, there were only two,” or “there were two,” or something [fol. 1103] like that.

And then to find out how many, if they knew, persons had been injured either with gunfire or flying objects. And that was the first part of it.

The next part was when we got to the scene and had to find out—oh, I, also, asked them if they could estimate, realizing it was dark and there was a good deal of confusion, how many students or other persons were involved.

And, of course, they weren't able to be very specific about that.

And I asked, as usual, “Were there many outsiders, out-of-towners here, adults,” and so, “that you were able to recognize?”

And they said they saw a few and I believe that the first time that General Walker's name came into the conversation was at the monument when one of them—and I don't remember whether it was LeBreton or Savell—said, “General Walker stationed himself here last night and then the students,” he said, “recognized him,” and I think he said that, or Savell, rather said, “a cheer went up,” or maybe it was LeBreton, I'm not sure, “a cheer went up,” or something, that “the students rallied around him,” or something like that, and that, “He then led them towards the Marshals.”

I believe that was the substance of the conversation. [fol. 1104] But the first thing I was concerned with, as I say, was the deaths and injuries because I thought, judging from what that woman had told me in Memphis, it was a good deal more severe—well, it was bad enough but

[fol. 1105] Q. Now, then, Mr. Morin, under date of October 1, 1962, and under your by-line, there was an article written about Walker, is that right?

A. Yes, sir—well, not about Walker.

Q. Sir?

A. It was not only about General Walker.

Q. Well, the article included comments about Walker?

A. Yes.

Q. And I notice the Dallas paper there has headlined it as emphasizing Walker.

A. Yes, but that's the Dallas Times Herald.

Q. Yes.

A. That's not the substance of the story.

Q. I understand. You are not responsible for the headline that the local paper puts on it?

A. No.

Q. But the article does contain comments on Walker?

A. That's right. It doesn't—I wouldn't use the word "comments". It contains what our people down there, including the photographers, who were all over the place, told me was his part in the action; in other words, that's a report of what General Walker did. But "commenting" is the wrong word.

[fol. 1106] Q. Well, do you mean that photographers told you that Walker had led a charge?

A. I don't say the photographers told me this. I don't—in other words, you have got a lot of people talking there.

Q. Yes.

A. But out of the concensus of what they said was that the General had been there the night before and that he had played a role in the events of the night.

Q. Now reading down to the third paragraph, there are two paragraphs here, or three that we are interested in primarily, "Walker whipped up the students and others on the campus of the University of Mississippi Sunday night when it became known there Meredith, Negro, was on the campus."

A. Uh-huh.

Q. That was your concept of the general information that you had received from your AP personnel?

A. That's right, they told me, I mean the statements that they attributed to General Walker and his actions.

Q. Yes. So are we in agreement then that the entire source of facts upon which this article was based came from your conversations with the AP newsmen that you encountered after you arrived at Oxford?

A. No, they were not the only source. There were other [fol. 1107] newspapermen there from other newspapers who had been on the campus the night before.

Q. Did any other newspapermen other than Savell or someone else connected with the AP tell you that Walker had led a charge?

A. I don't know that they actually used that term but they described the action.

. . .

Mr. Watts: Skipping to the question on line 22, page 49.

. . .

Q. Yes. "However, at the time he was the crisp and professional soldier who gave no signs of his feeling. He set up his command post at the corner of Central School. The contrast is most marked by the size of the operations here. In Little Rock, it was largely quiet. If you were three or four blocks from the school. In Oxford, there is little quiet anywhere. On the contrary, there is a brooding sense of disaster. Several days ago, Walker said he planned to lead 'tens of thousands' of volunteers to aid the cause of Governor Barnett but his only troops Sunday night were a band of students and other persons whom he led in a charge on the position of the Federal marshals."

Now, you have in your article there and news release to the world made the statement that "Walker led a charge [fol. 1108], on the position of Federal marshals." Now, I wish you would tell us, to the best of your capability of memory, all sources of information that you had that

Walker had led a charge on the position of the Federal marshals.

A. Well, I have tried to—as I say, these were reporters, they were photographers, they were men from other individual newspapers and what-not to whom I talked that morning.

Q. All, of course, was hearsay from other people and you personally hadn't observed it?

A. No, of course I didn't get there until long after the events were over.

Q. Could you give us a distinct recollection of any single individual that told you that Walker had actually led a charge?

A. No, no.

Q. You do have a recollection you went out to the campus in the automobile with LeBreton, Savell and one other individual, that someone pointed to the monument—

A. Well, we walked to the monument.

Q. Oh, you got out and walked?

A. As I told you, we parked outside the gates and we walked over that area.

Q. Now reconstructing and reliving that incident, to the very ultimate of your present capability of memory, I wish [fol. 1109] you would park your car and get out and go back over it and tell us just exactly what happened and what you saw and who said what to whom.

A. All right. First of all, I asked where the two people were killed. Nobody seemed to know that. And it later developed that the French correspondent—at least I believe—whether he was killed there or not but the French correspondent's body was found some distance from there. But in any case, we weren't able to establish that.

The next thing was to go and look at the debris, burned out cars and things of that nature around the side. And they showed me, my memory of it is, there was a bulldozer or some sort of—a piece of equipment, in any case, that had had been used but I believe had jammed or the motor quit or stopped against a tree, or something of that nature, so

they showed me where that had come from, toward the lines of marshals.

I can't tell you exactly when we went to the monument. As I say, we were simply walking around the whole area, from the steps there of the Lyceum, on out to the gate, this having been the scene of the action the night before and that's about the best I can tell you about it.

• • •

[fol. 1110] Mr. Watts: Now, on page 54, line 7.

• • •

Q. And from your talking with these people—and as I understand, the only one you can specifically remember telling you about the charge is Savell?

A. That's the only one I can specifically remember.

• • •

The Court: Ladies and Gentlemen, we will recess until 9:00 o'clock Monday morning. The Courthouse is closed tomorrow. They will not keep it open just for one Court, and the air conditioner on on the whole building just for one room.

Please bear in mind my instructions not to discuss this case with anyone, or permit it to be discussed in your presence. Have a pleasant week-end.

(Thereupon, at 5:00 o'clock, p. m., an adjournment was taken until Monday morning, at 9:00 o'clock, June 15, 1964.)

[fol. 1113]

Proceedings

9:00 o'clock a. m.

Mr. Watts: If Your Honor please, at this time I would like to read to the Jury the Plaintiff's Exhibit 13, which is an Associated Press release, and in lieu of digging it out of this stack of official wire service releases, I am going to read the same release from the Evening Star which was offered by the Defendant as the Defendant's Exhibit 2.

The Court: All right. But, you are offering Plaintiff's 13 out of the original group?

Mr. Watts: Yes, sir.

This, Ladies and Gentlemen of the Jury, is an Associated Press release by the witness Relman Morin, whose deposition we have read, and I know it's kind of hard to keep up with these depositions, but we read his deposition the last thing last Friday.

I will read to the Jury this news release by the Associated Press.

PLAINTIFF'S EXHIBIT 13

"By Relman Morin, Associated Press Staff Writer.

"Oxford, Mississippi, October 1:—

"Little Rock was a skirmish. Oxford is a war.

"The riots just five years ago in the capital of Arkansas were ugly and dangerous. In Oxford, the ugliness and [fol. 1114] danger, is magnified to a gigantic scale.

"And one of the ironies of the situation here today is that former Maj. Gen. Edwin A. Walker, who commanded the Federal troops that took over Little Rock, is on the opposite side of the fence here.

"Mr. Walker whipped up the students and others on the campus of the University of Mississippi last night, when it became known that James H. Meredith, was on the campus.

"After the Little Rock riots, Mr. Walker said that he found his duty there distasteful.

"However, at the time, he was the crisp and professional soldier who gave no sign of his feelings. He set up his command post at the corner of Central High School—the object of the riots.

"Contrasts in Size

"The contrast is most marked by the size of the operations here. In Little Rock, it was largely quiet three or four blocks from the school. In Oxford today, there is

little quiet anywhere. On the contrary, there is a brooding sense of disaster.

"Several days ago Mr. Walker said he planned to lead 'tens of thousands' of volunteers to aid the cause of Gov. Ross Barnett.

"But his only troops last night were a band of students [fol. 1115] and other persons whom he led in a charge on the position of the Federal marshals.

"They got within 100 feet but the tear gas fumes repelled them.

"Gives Advice

"Later, Mr. Walker was giving demonstrators advice on how to counteract the acrid tear gas fumes.

"Mr. Walker, appeared on the Oxford town square during the disturbance here today.

"Mr. Walker marched ahead of a file of soldiers as though he were their inspecting officer.

"Finally, an Army officer asked him to move. He refused. The officer ordered several soldiers carrying rifles with bayonets alongside him.

"The soldiers held their bayonets within inches of the former general, but did not touch him. The officer said something to Mr. Walker and he walked off through the crowd."

Mr. Watts: Now, if Your Honor please, we will offer part of the deposition of Mr. Alan Gould, the Executive Editor and, unfortunately, we do not seem to have the other deposition. I will, I believe, just go ahead and put on a witness rather than doing that.

Mr. Charles May.

Mr. Gooch: Wait, if the Court please. Before he puts [fol. 1116] on this next witness, he was reading from the Van Savell and the Morin deposition. I believe I have a right—

Mr. Address: He's got a right to cross-examine.

The Court: Yes.

Mr. Watts: Did you want to offer some of that cross examination?

Mr. Gooch: Yes.

The Court: Hold up, Mr. May. You will have to wait back outside, Mr. May.

Mr. Address: Do you want to read it, Tiny, or do you want me to. . . .

Mr. Gooch: I'll read it.

At the close of the day on Friday, Mr. Watts was reading from the deposition of Van Savell and Relman Morin, which was a deposition taken by Mr. Watts in this case and I would like to read excerpts from that deposition.

I refer you to page 7, line 5.

. . .

Q. Did you receive any course of training for the increase in efficiency of your duties while you were in New Orleans?

A. The normal inside office training, yes. I was under observation of others and I was kept under 'wraps' for a [fol. 1117] certain amount of time, until I felt I could take anything by myself without any help.

Q. Under whom were you mainly working?

A. Ken L. Davis. He was the Chief of the Bureau, of the superior, yes.

Q. How many employees were in that office?

A. I don't know exactly.

Q. Just roughly?

A. About seven or eight or nine newsmen.

Q. Did Kenneth Davis then give you any type of instruction that would better qualify you for performing your duties?

A. My copy was checked, edited, and I was attentioned as to the editing that was done, to show the things I could correct.

Q. Did they give you any Associated Press training manuals or directives, any written material at all?

A. Certainly, I was given copies of how the Associated Press was organized, and so forth, and copies of so-called

fringe benefits that were available to me, hospitalization, pensions, insurance, and so forth, and that's about it.

Q. Mr. Savell, were you given any directives from the Associated Press as to editorial policy and as to procedure of their news-gathering personnel?

A. I was told that we report only facts. There is no [fol. 1118] editorializing in the AP. I was explained to as to how the AP works, and I was told the reporter's opinion is nothing, I must forget the reporter's opinion.

Q. Were you given any briefing as to slanting of the news?

A. I was told there was no such thing, strict facts and nothing else.

Mr. Gooch: Page 22.

Mr. Watts: Just a moment, Tiny. If Your Honor please, I intend to offer this other stuff he left out. Would it be more convenient if I just asked Mr. Gooch the questions and let him give the answer?

The Court: I believe it would be better to let Mr. Gooch offer what he wants to offer.

Mr. Watts: Whatever he wants to do. I thought it would just save a little time.

Mr. Gooch: Page 22, line 25.

* * *

By Mr. Watts:

Q. When did you go to Oxford?

A. I believe it was in September, September 15th, on a Sunday in 1962.

Q. What caused you to go there?

A. I was assigned to go to Oxford because of the possibility that James Meredith would appear on the campus to register.

[fol. 1119] Q. Was the assignment oral or written?

A. Oral.

Q. By whom?

A. I think it was officially given to me by Mr. Sigus, but I know it was coming sometime beforehand.

Q. How did you know?

A. Mr. Davis had told me that I would be the newsman to go up there.

Q. When and where did that conversation occur?

A. I don't remember, in Jackson, on one of his visits to Jackson.

Q. Relate to us what he said, and what you said.

A. I don't remember.

Q. You have no recollection at all?

A. No, sir. It was just one of these conversations where—you drink coffee and talk about different things, and he just said, "By the way, you are going to Oxford," and that's it.

Q. What was your personal attitude toward the integration problem that existed in Mississippi?

A. My only attitude was that I had to report what was going on.

. . .

Mr. Gooch: Please turn to page 44, line 10, for continuity.

. . .

[fol. 1120] Q. Tell us what happened on the 15th? Anything else significant on the 15th?

A. Not to my knowledge, no, sir.

Q. What day of the week was it?

A. I feel certain it was on a Sunday. Well, it was a Sunday that I went, but it may not have been the 15th but the 14th or 16th.

Q. Anything significant the remainder of that week?

A. On Thursday, I believe, James Meredith made his first attempt to enroll at the University, if I am not mistaken. I believe it was a Thursday.

Q. Did you cover that?

A. Yes, sir, I did.

[fol. 1121] Q. Was that attempt unsuccessful?

A. Yes, it was.

Q. Did you report it to your employers?

A. Yes, I did.

Q. And the substance of that report?

A. The substance of the report was that James Meredith arrived at the University with Federal Marshals, including James McShane, and a Federal attorney by the name of—well, I can't think of it right now. I know him but—one of the civil rights attorneys in the Justice Department. They went to a building called the Alumni House or Alumni Extension Center, and I don't remember at this moment whether Governor Ross Barnett arrived before or after, but either he was there or he arrived shortly thereafter. None of the newsmen were allowed inside the building, no newsman was allowed within, well, a certain distance. The Highway Patrol had the streets blocked off so the people had to stand across the street from the building.

There was a large group of students there and I reported this. There were some jeers and cat-calls, and I reported this. Shortly thereafter, 15 or 20 minutes, Meredith came out with some people, the Marshal and Attorney, and they all got in a car and they drove off. When they drove all the student group, which was quite large, ran in the direction that they drove as they left from, or the direction [fol. 1122] from which they came, because they ran, and I ran in that direction, too, and keeping an eye on things. They got away okay, and I reported this. When I returned Governor Barnett was coming out, and Claude Powell was with me, and the Governor started to get in his car, and before he did, he reached out with his fingers, like that (indicating) and said the Winston Churchill style of the, and Claude Powell took a pretty good picture of that, and I reported this. After that everything was pretty quiet that day, and I think the rest of the week. Mainly, or for the most part, the whole business was to sit around and wait.

Q. To whom did you report?

A. I reported to New Orleans.

Q. By phone?

A. Yes.

Q. Did you make any written reports at all?

A. No, I didn't.

• • •

Mr. Gooch: Page 47, Line 13.

Q. What of any significance happened the following week?

A. I believe on a Thursday—let's see—well the next week we were—we were preparing for Meredith to come again to the University on Tuesday.

Q. How were you preparing for it?

[fol. 1123] A. Setting up the positions where we would be, because we didn't expect him to go to the same place again.

Q. And who is "we"?

A. The other newsmen and myself. We heard rumors that the Marshals would be there in much greater number, and we figured that they would try to go straight to the Administration Building, so we prepared on several fronts, and also the airport, to keep an eye on the plane he might have come in on, and the whole thing switched to Jackson.

On Wednesday it did occur in Oxford. Meredith came and was blocked this time by the Lt. Governor, and this occurred right at the edge of the university property, some 200 or 300 yards east of the Alumni Building, down the University Drive, University Avenue.

• • •

Mr. Gooch: Page 53, Line 7.

Q. Now did anything else significant or news worthy occur between the previous incident that you have outlined, on September 30th?

A. Well, yes, one news item on Saturday afternoon late, we received a report that Federal Marshals or troops, one or the other, were moving in. It proved to be false.

• • •

Mr. Gooch: That is through Line 12, on Page 53.
Page 56, Line 24.

[fol. 1124] Q. When was it you first knew that General Walker was coming?

A. I didn't know he was coming until he was there.

Q. Until he actually arrived in Oxford?

A. Until I saw him, I didn't know for a fact that he was coming.

Q. When did you first see him?

A. In the courtyard of the Ole Miss Hotel.

Q. When?

A. About 4:00 o'clock, or 5:00 o'clock Sunday afternoon, September 30th.

Q. What was he doing there?

A. He was preparing to have a press conference, sir.

Q. Did you see this press conference?

A. From a distance, yes.

Q. Had you ever seen General Walker before?

A. Yes.

Q. Where?

A. Jackson, Mississippi.

Q. When?

A. I believe it was in the winter or early spring of 1962, when he was there for a speech. I don't remember the exact time, or don't remember when it was, but it might have been after January 1, 1962, because I wasn't in Jackson before that time.

[fol. 1125] Q. Did you see him at that time?

A. Yes, I did.

Q. Where?

A. At the Municipal Auditorium, where he spoke.

Q. Did you hear his speech?

A. No, I did not.

* * *

Mr. Gooch: That is through Line 25, on Page 57.
Now Page 59, Line 6.

Q. Did you at any time prior to the 15th of September know Walker's background?

A. All I knew was that he had been the general leader of the troops in Little Rock, and I knew that he had re-

signed from the Army, or—I don't know how it went—but I knew he was not in the Army any longer, and I knew he was in Texas, or thought he was in Texas, and I knew that he was making some speeches across the country.

Q. Did you have any concept at all the reason for his resignation?

A. No, I don't know whether I knew about him or not. I really don't know what they were, but I heard, but I haven't read anything.

Q. Did you talk with Barsch about Walker, after he had appeared, that he was coming to Oxford?

A. Barsch—well, no, not to my knowledge. In fact, no, [fol. 1126] no, I didn't.

Q. Had Barsch known Walker?

A. I don't know.

. . . .

Mr. Gooch: That is through Line 24, Page 59.
Page 65, Line 9.

Q. When was Meredith brought onto the campus?

A. To fix the time, I don't know.

Q. When was it you first heard that he was coming on the campus?

A. I heard he was on the campus some time between 7:30 and 8:00 o'clock, I think, I wouldn't know exactly, but after dusk.

Q. And this news conference of Walker's was taking place around 5:00 o'clock?

A. Yes.

Q. How long did it last?

A. I don't know. I didn't stay around to the end.

. . . .

Mr. Gooch: That is through Line 20 on Page 65.
Page 75, Line 4.

Q. Tell us everything that happened from the time you left the motel until you actually got on the campus.

A. I left the motel and drove down University Avenue and toward the east entrance of the campus. Upon reaching,

[fol. 1127] well, actually I entered the campus property, but when I came to the bridge which crosses over the railroad tracks the Highway Patrol was there, and five or six persons stopped us, told us that newsmen, nor anyone else, were allowed on the campus. But he told us that possibly we could have an order shortly letting the newsmen on.

So Ed Lebreton whispered to me, "I'll stay here and you can go ahead and see if you can get on anyway you can."

So—

Q. You mean by deception or otherwise?

A. Any way. So I turned my car around and drove back to about the next street going toward town, drove about two blocks or three blocks, down back around the railroad tracks bordering the campus.

Q. Which direction did you go, north or south?

A. Well, I was going east as I was going to the campus, and I turned around and drove—well, west, rather—and when I came to the entrance I turned around and drove east for about two or three hundred yards, took the first street to the left going north, and then drove for about two or three blocks and then turned west, drove two or three blocks until I came to the railroad tracks, and when I parked my car and got out and stepped onto the railroad tracks, and a patrolman saw me from the railroad trestle [fol. 1128] that I had just left, or he saw someone, and he made some shout, and I paid no attention but went across. I went through the underbrush and I was on the campus.

Q. Alone?

A. Alone.

Mr. Gooch: Page 87. Mr. Watts, there has been a deletion there, I think. That was part of your question—

(Sotto voce conference of counsel.)

Mr. Gooch: Page 87, at Line 20.

Q. All right, you had arrived on the north side of the campus, saw the Highway Patrolman, and tell us what occurred then.

A. I walked further on the campus, I met a convoy of U. S. Marshals and army trucks, and I followed them to the Lyceum Building or Administration Building on the campus.

Q. Were you alone or with someone?

A. I was by myself.

Q. All right.

A. The Marshals got out of the truck and proceeded to ring the Lyceum Building. They had their backs to the building, and I counted and there was a hundred and forty-eight. They were dressed as we talked about earlier. They were facing a few small groups of persons standing across [fol. 1129] the street from the building.

Q. In what area?

A. In the area of the Fine Arts Building.

Q. Did the Marshals form a ring facing outward from the Lyceum Building?

A. Yes, sir.

Q. Did you walk completely around the building?

A. Completely around, no, sir.

Q. When did you count them?

A. Shortly after I arrived.

Q. Was Meredith with the Marshals?

A. I didn't see him.

Q. When did you first see Meredith?

A. At 8:30 on Monday morning, October 1st.

Q. What time was it these Marshals arrived?

A. Shortly after 5:00 o'clock, to my best memory.

Q. How long after you had left the Walker press conference was this?

A. They were on the campus when I got there. It must have taken me 15 minutes, maybe, to get there from the Ole Miss Motel onto the campus, University Motel.

[fol. 1130] Q. Were you there when they de-trucked?

A. Yes.

Q. When did you 'phone your first report to the AP?

A. As soon as I got to the telephone.

Mr. Gooch: That's through line 8, page 89. Page 92, line 23:

. . .

Q. What next occurred that was significant.

A. The next thing that I can remember was that the crowd began getting a little larger and there were some snide remarks of some sort, anyway some remarks to the Marshals, and the Marshal were taunted about their tear gas guns that they were carrying and after quite a few remarks I went to the telephone and I called this in, along with the fact that the Marshals appeared to pay no attention to it.

Q. At first, were the students remarks of a somewhat humorous vein?

A. Some were, yes.

Q. Go ahead. Did you so report that at that time to the AP?

A. I did.

Q. Now, this is the second call you made?

A. Yes, second call, yes.

[fol. 1131] Q. Continue.

A. After that I just stood around, mainly being seen in the vicinity, I mean so that the AP newsmen would know I was there, and keeping an eye on things, and the crowd got larger and larger.

Q. And somewhere wandering around the area of the Lyceum Building?

A. North and northeast and eastern side, yes. I kept check on the other side, but nothing there but Marshals, and nobody was gathered. I stood around in the area and the crowd got larger and there were lighted cigarettes tossed into two or three Army convoy trucks parked immediately to the east or in front of the Lyceum Building and there were also some small rocks tossed toward the Marshals.

Q. Tossed or thrown?

A. Tossed, thrown.

Q. Sir?

A. Tossed or thrown.

Q. Could you see the individuals who were engaged in those activities?

A. Yes.

Q. Did they appear to be students or otherwise?

A. Yes, students.

Q. Where were they getting the rocks?

A. Off the road that had them, a few little small pieces [fol. 1132] of gravel on the side of the road.

Q. Did you see any Marshals hit?

A. I saw a few bounce off their helmets, yes.

Q. Was it dark yet?

A. No, it wasn't.

Mr. Gooch: That's through line 19, on page 94. No, it's continued. I'm sorry.

Q. Continue.

A. I went to the telephone and I reported this. I returned.

Q. Now, this is the third 'phone call?

A. Yes, I guess.

Q. All right.

A. And I come back and the crowd was getting bigger and it was getting dark at the same time and a helicopter flew over. I knew it was taking pictures. Somebody inside was taking pictures and there were some sort of pep rally remarks about the helicopter from the students but the rocks and the lighted cigarettes continued to be thrown toward the Marshals. After it got dark, why, the crowd got quite large on those two sides.

Q. About what time did it get dark?

A. I really don't know. I think it was probably between 6:45 and 7:15.

Q. Were the lights turned on then?

[fol. 1133] A. Yes, sir.

Q. What lights were there with respect to the Lyceum Building and Circle?

A. There were two lights. Well, strike that. There was a sidewalk going down through the Circle. As the sidewalk

starts, at the Lyceum, in front of the Lyceum Building, there is a light on each side.

Q. Now, in this Circle, there is a flagpole about the center?

A. That is correct.

Q. I put an "O" where the flagpole would be. Is that approximately correct?

A. Oh, as close as could be, yes.

Q. Down at the very east end of this point of this circle I will put a dot, as representing the Confederate statue. Is that roughly in the same position?

A. Yes, sir.

Q. All right. Meanwhile, now, up north is the Lyceum Building?

A. Yes.

Q. How far could you see after it became dark?

A. About a hundred yards.

Q. Continue.

A. I watched as the crowd got larger and the Mississippi Highway Patrol had appeared in the meantime.

[fol. 1134] Q. By that time had you heard how the football game came out?

A. The football game was on Saturday.

Q. And you know how it came out?

A. Yes.

Q. Had you heard any students discuss it any?

A. No.

Q. Was the student body by that time pretty well back in school after the football game?

A. I don't know.

Q. Where are most of the dormitories from the Lyceum Building?

A. To the north are the women's dormitories, in an area here directly north from the Circle, and the men's dormitories on Rebel Drive and Dormitory Road.

Q. That's generally on the west side of the Circle?

A. Yes.

Q. All right. Continue. Then what did you see after the crowd began to get large?

A. Well, the highway patrol came during the time that I was at the 'phone. When I came back, I went back to the 'phone again.

Q. Did they come in automobiles or what, or on foot?

A. I don't know. I just saw them standing in front of [fol. 1135] the Lyceum Building and somewhat to the northern side. By front, I mean east.

Q. Did they form anything approximating a line?

A. Yes, sir, a line.

Q. Where was this line with respect to the Marshals' line?

A. It was more or less across the street, pretty close to the curb, opposite from where the Marshals were.

Q. Did it conform in circling to the Marshals' line or was it different?

A. Pretty much so.

Q. About what interval between them?

A. About four or five feet, I don't know.

Q. Did you hear any conversation between the Marshals and the Highway Patrol?

A. Yes, sir.

Q. Tell us what it was?

A. The Chief Marshal, James McShane, told the Highway Patrol, he called the captain, called him over, and he said, "Captain, come here." And the Patrolman came over and they talked a little bit and as the Patrolman walked away from him, after they talked, McShane hollered to have the students move back off the curb and off the grass.

Later he called the same man over again and asked for the same thing out loud. The man didn't go all the way to [fol. 1136] it and I believe there was a third time. He just talked generally to the Highway Patrol and told them to move the crowd back.

Q. What did the Highway Patrol do?

A. They attempted to move them back.

Q. And by this time, could you then estimate the crowd?

A. Larger than a thousand, I think.

Q. Were they all in one group or in separate isolated groups?

A. Actually, a solid group strung over a large area.

Q. Where were they concentrated with respect to the Lyceum Building?

A. Northeast, north and east, and eastern side.

Q. What occurred next?

A. The TV cameraman drove up and parked in the road just to the northeast of the Lyceum Building and started to get out of his car with his camera.

Q. This is on the so-called Circle?

A. Yes, it is on part of the Circle, right next to the Lyceum Building.

Q. All right.

A. And he got out, and the students converged on him, and there was a lot of talking, they got closer, and they were sort of shoving him around and then his TV camera [fol. 1137] was knocked to the ground and his wife was in the car, and the guy was able to get back in his car with the help of the Highway Patrolman. With the help of the Highway Patrolman, this fellow was able to get back in his car, but the students grabbed hold of the car and rocked it back and forth, rocks were thrown and the windshield was busted and another window busted and some dents were put in the car and finally he was able to drive away.

Mr. Gooch: That's line 12, page 99.

* * *

Mr. Gooch: Please turn to page 103, line 3.

Mr. Watts: Mr. Gooch, would you mind, saving me having to do it, go a couple of questions before and identify where this 'phone was? If you will, go to line 22, page 102. Save me having to go back and pick it up.

* * *

Q. I thought you said you kept this 'phone open all the time?

A. I kept this 'phone open all the time but they could switch it to any extension they wanted to.

Q. In New Orleans?

A. Yes.

Q. How long did the 'phone stay open in Perkin's room?
[fol. 1138] A. I think about 3:00 o'clock or 4:00 o'clock in the morning.

Mr. Gooch: Is that what you are talking about?

Mr. Watts: Right, yes.

Q. What did you find when you went back from using the 'phone?

A. A crowd was there and it was getting quite large and hurling insults at the Marshals and throwing rocks and throwing cigarettes and the Marshals, through the Highway Patrol, ordered them to move back and at this time they didn't and they were standing in the middle of the road rather than getting back on the grass, like the Marshals ordered them to, and the Chief Marshal, James McShane, ordered gas masks on, and the students were ordered to move back. They didn't.

Q. Did you at that time see any students you knew in the crowd?

A. Yes, sir.

Q. Name some names or all you know?

A. The only one I can remember is Joe K. Moore.

Q. Where was he?

A. He was standing there.

Q. Was he saying anything or doing anything?

A. He was working.

Q. Doing what kind of work?

[fol. 1139] A. Stringer for the Clarion Ledger in Jackson, Mississippi.

Q. Was he participating at all in the activities?

A. I didn't see him participate.

Q. Did you see any other students you knew?

A. I saw those I knew by face, and I can't remember right now, that I really know.

Q. Would you say, then, that as of now you don't know any student that was in that group, except John K. Moore, or Joe K. Moore?

A. To the best of my remembrance, I can't think of anyone else.

Q. Can you fix this time?

A. Between 7:30 and 7:50.

Q. All right, sir. Anything else of significance occur?

A. They were ordered to move back again, and they didn't.

Q. How long was this after the gas masks were put on by the Marshals?

A. A minute.

Q. Who was issuing the orders?

A. McShane.

Q. Could you hear his orders?

A. Yes, sir.

[fol. 1140] Q. Were they in a loud voice, to all the Marshals?

A. They were so that the Marshals could hear it in front and they were to relay the orders around.

Q. You say they were to relay?

A. And they did relay the orders.

Q. But you don't know whether this was by order or pre-arrangement?

A. No, I do not.

Q. What was the order that McShane issued when they put on the gas masks?

A. He just said, "Gas masks."

Q. Then about a minute later the students were ordered to move back again, or the crowd was?

A. Yes, sir.

Q. Could you at that time spot what you thought were individuals other than students?

A. Yes, sir.

Q. Anyone you knew?

A. Newsmen and professors.

[fol. 1141] Q. What professor?

A. Well, I don't remember any of the professors, in fact, I don't know but one by name, but I didn't see him.

Q. What about the newsmen?

A. I saw this fellow from Memphis, UPI newsman.

Q. Did you see his walkie-talkie?

A. I didn't see it at that time.

Q. All right, go ahead.

A. When the students didn't move within 30 seconds or so, the guns were up and they fired.

Q. What was the order given to fire?

A. I didn't hear an order.

Q. How many weapons were fired?

A. I don't know.

Q. Did all the Marshals completely surrounding the Lyceum fire their weapons?

A. I don't know.

Q. What weapons did you see fired?

A. The ones on the east part of the northeast.

Q. For about what distance, assuming—

A. From, say, the southeast corner here, to a little place past the northeast corner.

Q. There was a barrage of tear gas fired by Marshals starting from the southeast corner of the Lyceum, clear around to, circling due north of the Lyceum?

[fol. 1142] A. I don't know whether due north, but as far as I could see, yes.

Q. Where were you at that time?

A. At that time I was standing just facing the Lyceum Building, standing just left of the center of the building.

Q. Were you behind or in front of the Marshals?

A. I was in front of the Marshals.

Q. Were they facing towards the flagpole?

A. Yes, they were.

Q. Where were the Highway Patrolmen with respect to—

A. The Highway Patrolmen were in a line, one directly in front of me was two feet in front of me.

Q. How far were you from the Marshals?

A. About eight feet.

Q. So there was about 10 feet then between the patrol and the Marshals?

A. No, sir, about six feet.

Q. About six feet. Did you hear the Patrol say anything before or immediately before the tear gas was fired?

A. They were telling the students to move back.

Q. Did you see anyone make any overt act, throw anything or make anything approximating a move toward the Marshals just before the tear gas was fired?

A. Overt act, yes. Rocks were thrown, large ones.

Q. From what area?

[fol. 1143] A. From the general area of all the students.

Q. Did it seem to be an organized effort by command, or was it spontaneous, or sporadic?

A. Spontaneous and sporadic. It was not organized, to my knowledge, it was not organized.

Q. How longer after the first rock was thrown, that you know about, was that before the tear gas was fired?

A. About five or six minutes, I think.

Q. What was the closest student to the Marshals at the time the tear gas was fired?

A. I don't know.

Q. What was your observation, your best estimate?

A. That I know of, those in the front line were as close as I was.

Q. Were there students then between the Highway Patrol and the Marshals?

A. No.

Q. Well, you were between the Highway Patrol and the Marshals?

A. No, a highway patrolman was between me and the Marshals.

Q. Then I misunderstood you a moment ago.

You then were to the east of the Marshals, were you, or Highway Patrol?

A. Yes.

[fol. 1144] Q. Were you among the students?

A. I was standing on the front line.

Q. How near were the closest to your left and right?

A. On my right, half a foot. On my left, I don't remember.

Q. How far back in depth did the crowd go?

A. About 10 or 15 feet, in my area.

Q. Did you see at that time any students that you recognized?

A. No.

Q. Or anyone else, other than just the newsman you recognized?

A. At that time I didn't see a newsman I recognized.

Q. Where did the tear gas pellets land?

A. Behind me and behind the front line, unless they hit someone.

Q. Were the weapons fired upward in an arc, or hip level?

A. Hip level.

Q. That you say?

A. Hip level.

Q. Were the barrels of the weapons parallel to the ground, roughly, when they were fired?

A. Yes, sir.

Q. About what range from the muzzle of the weapon did [fol. 1145] the pellets land?

A. I didn't notice.

• • •

Mr. Gooch: That is through Line 4, on Page 109.
Page 119, Line 17.

Q. Go ahead.

A. And I went on into the area, and there was quite a group of people there. They sort of—once in a while a group of five or six or maybe 10, or sometimes as many as 20 people, would start running to the Lyceum Building with small parts or particles of bricks or rocks or sticks or glass in their hands, and they would get as far as they could without the tear gas affecting them, and throw this toward the Marshals.

Q. Where were these students starting from?

A. In the general area of the Confederate statue.

Most of them were a little—they were actually between the Confederate statue and the Lyceum Building, more or less half-way in between that and the flagpole.

Q. What would you estimate that distance?

A. From the Lyceum Building?

Q. No, from the Confederate statue to the Lyceum Building?

A. Roughly 200 yards.

Q. All right, And how far would the students run before they would throw?

A. I would say a hundred yards.

Q. Would they throw from the east or west of the flagpole?

A. East or west, both.

Q. Where were they getting their missiles?

A. Their glass, I don't know. Their sticks and their broken brickbats were coming from the construction of a Science Building, I believe, that was directly east of where the Confederate statue is.

Q. On which side of the road?

A. South side of the road.

Q. Would that then be southeast of the Confederate statue?

A. More south than east. Actually it was, straight down the road, right down the road, due east.

Q. Continue with your narration.

A. The group apparently got a leader. I don't know, but somehow or another, they gathered, and after many small assaults, they got a larger crowd, several hundred, probably as many as 500 in the group, and they made an assault towards the Marshals.

Q. What do you call an assault?

A. They were walking and running, some not really fast, towards the Lyceum Building, as far as they could go, and [fol. 1147] they would come to within throwing distance of the Marshals, and in respect to the tear gas, not going any further, where it was too thick, and they would throw

this, and then the Marshals would race across the street and that would make them back up.

Q. What do you mean race?

A. The Marshals were on the sidewalk there in front of the Lyceum Building, and then they would run across the street, on the other side of the street, firing their tear gas quite high, and it was falling behind the students, and since the wind was blowing northwest, it was blowing right back in their faces. As far as the students, actually it was falling on the other side of them, and blowing back in the faces, towards the Marshals, so they had to leave and run back to their area.

Q. Were the Marshals wearing a gas mask?

A. Yes.

Q. You say it was rolling toward the north?

A. Northeast. (sic)

Q. And the students were approaching toward the west?

A. The students were going towards the west and the wind was blowing this way (indicating).

Q. By "this way," you mean directly northwest?

A. Yes. And the students would run to a certain area, within throwing distance, probably around 75 paces—yards [fol. 1148] from the group, and the Marshals, after being—when the stuff began hitting them, would run across the street, maybe 25 or 30 feet, maybe more, and shoot their gas again, and it would fall behind the students, and the wind brought it back across them as it blew northwesterly, and this group which was still mostly students at this time, fled backward.

Q. You say apparently they had a leader.

Were you able to identify the leader?

A. Yes, there was one person who appeared to be a spokesman, kind of tried to rally the group together.

Q. Can you describe him as best you can.

A. He was carrying a Confederate flag in his hand and he had on a shirt that was mostly red, but it was multi-colored. Blue jeans, and he had a jacket on his arm at one time.

Q. What age?

A. A student age, about 19 or 21. I don't remember.

Q. And his size?

A. About 150 to 170 pounds, about five, nine or ten.

Q. Blond or brunette?

A. I don't remember.

Q. How far could you see at that time?

A. I could see the Marshals from the Confederate statue, but I couldn't recognize anyone.

Q. Did you see them close enough to tell their general [fol. 1149] size and outline?

A. General outline, yes, but size, no.

Q. At this time were there any highway patrolmen in the area?

A. I saw none.

Q. When did the highway patrolmen leave?

A. I don't know, don't know when they left, but they were not back there when I got back from the first phone call, after the tear gas was fired.

* * *

Mr. Gooch: That is through Line 15 on Page 123.
Now Page 127.

Q. By my figure, that is the seventh phone call you made, and the fourth one from the Perkins' boy's room. Now are those telephone calls timed when they come into the AP receiving area or Bureau?

A. No.

Q. Are you sure of that?

A. Positive.

* * *

Mr. Gooch: Page 128, Line 22.

Q. Did you return then to the area?

A. Yes, sir.

Q. What area?

A. The grove area, right near the Confederate statue.
[fol. 1150] Q. Which side of the statue?

A. A little to the southwest or southeast.

Q. Did you see anyone you knew?

A. Slappy.

Q. That is twice you had seen him?

A. Yes.

Q. Any other AP personnel?

A. No.

. . .

Mr. Gooch: That is through Line 7 on Page 129.

Take up at Line 20, Page 129.

Q. Go ahead.

A. When I got to the area again, there were groups of people coming in from the railroad bridge, or what I call the east gate.

Q. Had the guard been taken off of that?

A. I don't know. I didn't go there.

Q. Go ahead.

A. And I kept noticing the crowd was getting larger and larger, and it appeared that lot of students were moving out of the area, because I moved on across, and I kept noticing there were large groups over to the north of the circle, on what used to be the old Library Area, I think it is now maybe the Fine Arts Building, and near the YMCA. And there were large groups of students standing, [fol.1151] and I went over and recognized quite a few students whom I knew, and they were there, and I came back, and I kept noticing the crowd was getting larger, and less and less students in the crowd.

Q. Continue.

A. At this time there was another charge and—

Q. Wait a minute. You went or left the flagpole area and went over to near the YMCA area?

A. Yes, YMCA, and this other building, which is I think the Fine Arts Building.

Q. Did you see anything unusual there?

A. No, nothing, just this large group of students, standing on the steps on both buildings, and I just watched.

Q. By this time had you heard or seen any shooting?

A. No.

Q. Did you hear any shots at all that night?

A. Yes. I saw no shooting but I heard it.

Q. All right.

A. As I turned to leave that area and go back towards the grove a wave of people went towards the Marshals again. It was as large as the first group.

Q. Was the same individual leading them?

A. I didn't see.

Q. What was the conformation of that?

A. I don't understand.

[fol. 1152] Q. Was it a solid front, or was it in broken groups?

A. In solid front.

Q. What were the north and south boundaries of it?

A. Oh, the north boundary of it was pretty close to the street on the north, and south boundary was about half-way between the street and the flagpole.

Q. Now this is the second wave or charge you had seen?

A. Yes.

Q. Where were you when you saw it start?

A. I was a little northeast of the flagpole walk, I was half-way between the Confederate statue and this building that I had been in front of.

Q. Now there are trees in the circle, called the Grove, or is the Grover somewhere else?

A. What we call the grove is not really the grove, no.

Q. What did you call the grove when you referred to it?

A. The circle. This circle actually is where this occurred.

Q. As I remember, some of the news reports referred to it as the grove?

A. Yes.

Q. Any of your reports refer to it as the grove?

A. I don't remember.

Q. Continue. You were in the grove and northwest of [fol. 1153] the Confederate monument when you saw the second charge?

A. No, I was not in the grove, but in the street, walking between this building and the Confederate statue.

• • •

Mr. Gooch: That is through Line 9, on Page 132.
Go to 133, beginning at Line 22.

Q. All right, sir. What did you do then?

A. I ran into the area where the charge was.

Q. Past the flagpole?

A. Yes, past the flagpole, and I just watched what went on.

Q. What did go on?

A. There were rocks and brickbats and so forth thrown at the Marshals, and tear gas, as before, used to repulse the group, and we all left the area and went down to the general area of the monument.

Q. And by "we all"; you mean the people that participated in the charge?

A. Yes.

Q. At this time there were people north of the circle?

A. North of the circle?

Q. Yes.

A. Other than a few scattered people who were in this group they were mostly students, in my opinion.

[fol. 1154] Q. Was there any activity against the Marshals emanating from that direction?

A. No, I didn't see any.

Q. All right, sir. How near to the Marshals did you get on this so-called charge?

A. About the same distance as the first, close to seventy-five yards.

Q. Did you see the Lyceum Building hit with rocks on that occasion?

A. I didn't notice.

Q. What did you notice?

A. I noticed that rocks, and so forth, did hit the Marshals again and bounced around and I knew they did behind, but whether they actually hit the building, I don't know.

Q. What else; anything else?

A. Tear gas reached us and we turned and ran to the monument.

Q. Did the tear gas reach you before or after the rocks were thrown?

A. After.

Mr. Gooch: That's through line 6, on page 135.

* * *

Mr. Gooch: Please turn to 136, line 7.

Q. Go ahead.

[fol. 1155] A. As soon as the group got to the other end, they almost immediately turned around and made a third charge or assault, or went toward the Lyceum Building again. By this time they had rocks and bricks and so forth, already down there, at the monument.

Q. Did you hear any command or order between the second and third charge?

A. Nothing, other than scattered comments of, 'Let's go,' and quite a few curse words.

Q. All right. Did you participate in the third charge?

A. Of the group, yes.

Q. What happened then?

A. The same as the two times before, the group went toward the Lyceum Building and we didn't get as far that time, because the Marshals ran out across the street in an apparent attempt to meet us or something, but we only got just a short distance past the flagpole because the tear gas was too heavy.

Q. Did you hear anything from the Marshals?

A. No.

Q. Then what?

A. Rocks and stuff were thrown. I couldn't see too well through the tear gas.

Q. Was the smoke getting pretty heavy at that time?

[fol. 1156] A. At the time of the charge it was, because it was fired before we could get very far.

Q. Was there a restriction of visibility?

A. At that time, yes.

Q. Prior to the time the tear gas was fired, could you see the Lyceum Building plainly from the monument?

A. Yes, I could see it.

Q. Could you see individuals walking in front of it?

A. I could see the outline of the Marshals.

Q. Go ahead.

A. I turned back and raced back to the monument.

Q. What happened then?

A. Everything got quiet for a while.

Q. For how long?

A. For about five minutes, maybe.

Mr. Gooch: That's through line 21, page 137.

Mr. Watts: Would you read the next two, and save me reading it?

Mr. Gooch: Be glad to.

Q. What would you say was the timing at the end of the third charge?

A. Between 8:30 and 8:45.

Mr. Watts: That's all I care about.

Mr. Gooch: Then, that would run down through line 24 [fol. 1157] on page 137.

. . .

Mr. Gooch: Page 139, line 15.

Q. Go ahead.

A. Then I heard a comment behind me to the general effect, and I don't remember the exact wording, "Here is General Walker, here comes General Walker," and I turned and I saw striding fifteen yards behind me, General Walker.

Q. Describe that.

A. He was walking in very long strides.

Q. In what direction?

A. In a westerly direction, up towards the Confederate statue.

Q. Where was he at that time when you first saw him?

A. About fifteen yards east of the intersection, right there where the Circle meets University Avenue.

Q. On which side of the road?

A. More or less in the middle.

Mr. Gooch: Then, going over—this next was read, about putting the marks on the chart. I'll omit that.

Mr. Gooch: Going over to page 142, line 1.

Q. How far from you was he?

[fol. 1158] A. When he stopped, he was, oh, eight or ten or fifteen feet, ten or fifteen feet from me.

Q. Did you say anything to him?

A. No, sir, I did not.

Q. Did he say anything to you?

A. No, sir, he did not.

Q. Did you hear him say anything to anyone?

A. At that time, no, sir.

Q. What occurred then?

A. He stood there looking around and I moved closer, I was probably within five or six feet of him, and this same person with the Confederate flag and multi-colored shirt, mostly red, said, "General, will you lead us to the steps?" And Mr. Walker made no comment, he sort of scratched his head (indicating), or rubbed his head a little like this (indicating), and moved his—his head went back a little, and he lowered his head, in my opinion he looked like somebody who might be thinking, and he was like that for several seconds, about forty or fifty seconds, just didn't say anything, was very quiet, in fact, the students got restless behind and began to chant, "Come on, let's go. There is General Walker, he is our moral support, let's go."

And Mr. Walker raised his head and looked this fellow squarely in the eye and nodded his head. Up to this time [fol. 1159] Walker had said nothing. I hadn't heard him say a word.

Q. Go ahead.

A. About this time they appeared to—well, Mr. Walker took a couple of steps forward and this boy who was over to his left, and some of the group, sort of moved up behind, there was quite a large group behind and they took several steps.

Q. At this time was there any personnel west of the monument?

A. West of the monument, I didn't see anyone. There might have been one or twenty, but I didn't see them.

Q. Had all the crowd then moved back into the street east of the monument?

A. Yes, that's my—

Q. Any people at all north of the Circle or northwest of the Circle?

A. In that direction, I couldn't tell.

Q. How far could you see in that direction?

A. I couldn't see very far. There were no lights.

Q. How far could you see towards the Lyceum?

A. I could see the Lyceum Building.

Q. Could you still see people in front of the Lyceum Building?

A. Outlines of people, yes.

[fol: 1160] Q. That is point where you moved, X-2?

A. I moved, now, about where my old X was.

Q. X-1, you mean?

A. No, the obliterated X.

Q. You moved then about half the width of the street to the north then?

A. Yes. I was about the center, where General Walker was.

Q. Where was Walker from you?

A. Oh, four to six feet from me, just to the north of me.

Q. All right. Were there any people between him and the monument at that time?

A. This one fellow who made the comment to him.

Q. Were Walker then and this fellow alone out there, ahead of the main crowd?

A. Repeat that.

Q. Were Walker and this one fellow now alone and to the west of this main crowd?

A. No.

Q. Describe the location then.

A. The fellow was out alone, up ahead of the crowd, but the crowd had closed around Walker on all sides, except the

one where this fellow was, and this fellow was standing about three or four feet away.

[fol. 1161] Q. From Walker?

A. West of Walker, he was.

Q. Go ahead.

A. And as I said, they took several steps forward, and then a portly, neatly dressed fellow of about forty-five walked up.

Q. Did he say anything?

A. He walked up to Mr. Walker and introduced himself.

Q. Could you remember what he said?

A. I didn't understand his name, no, sir.

Q. Did they shake hands?

A. Yes, they did.

Q. All right.

A. And this fellow, I noticed had on a deputy sheriff's badge. They talked for a moment, and then this boy sort of made a motion, and several people got around, and there was quite a hubbub in there, but I couldn't tell what was going on. I was still four or six feet away, and everybody talking at once there. This was only for several minutes.

Q. The portly gentleman with the sheriff's badge seemed to be involved in the charging?

A. In the charge, well, I hadn't seen him before.

Q. You had not seen him prior. Go ahead.

A. As I said, they were talking quite low, and then every-
[fol. 1162] one was talking at the same time, and I just sort of kept an eye on him, and I didn't hear Walker say anything. I just kept watching his mouth, and I didn't see him say anything, and then they sort of opened up.

Q. Did he have his hat still on the back of his head, or did he put it back?

A. He did not actually push it back, to the back of his head, but then sort of moved it when—

Q. In other words, he rubbed his brow?

A. Yes. He didn't put it on like a cowboy would.

Q. All right.

A. And the group backed up or away from the front of Mr. Walker, and this boy took his right hand and grabbed hold of the general's left arm, and another person on the other side did the same thing.

Q. Was that the deputy sheriff, or someone else?

A. I am not certain whether it was or was not, I really don't know.

Q. All right.

A. But anyway, they started walking.

Q. Which direction?

A. At that time they were walking due west, and they walked around the monument.

Q. Which direction?

A. To the north of the monument, and then they walked [fol. 1163] straight toward the Lyceum Building for ten or fifteen yards.

Q. Was that on the sidewalk or on the grass?

A. They were on the grass.

Q. North or south of the walk?

A. North of the walk.

Q. At what rate of speed were they walking?

A. Normal pace.

Q. Did Walker have any rocks or weapons or any missiles?

A. No, sir.

Q. Then what happened?

A. After Walker went ten or fifteen yards, they sort of veered to the right.

Q. That would be to the north?

A. Yes, sir. They were walking in more of a northwesterly direction.

Q. All right. Where were you at this time?

A. I was just to the right of Walker.

Q. Following then?

A. Almost abreast of him.

Q. From the time you saw Walker come up to this point, had you seen anyone else you knew?

A. No.

Q. Any other newsman?

[fol. 1164] A. No.

Q. Had you up to that time seen the UPI newsman, Kettner anywhere?

A. No.

Q. Continue.

A. We walked for about ten or fifteen yards, and as I say, they then veered to the right and walked in a circular manner, more or less bordering on the Circle.

Q. How close to the curb of the Circle?

A. About twenty-five feet from the Circle, but walked around until they were almost even with the flagpole.

Q. All right.

A. And then sort of veered back toward the center of the Circle.

Q. Did they walk straight or—

A. They came, just went toward the sidewalk.

Q. Due south?

A. No, not due south, just more or less going southwest or south-southwest.

But they went toward the sidewalk, didn't reach it, and then turned directly toward the Marshals, and at this time Walker and the two fellows that had hold of his arms were between the sidewalk or almost even with the sidewalk and street.

Q. And by that you mean the east-west sidewalk from [fol. 1165] the flagpole to the monument? Well, I will draw a line from the flagpole to the monument, which will represent the sidewalk. Now, where were they at this point?

A. Right in here.

Q. Would you put a W and circle it? All right. And we will put a 2 on the side of it.

A. (Marking.)

Q. Would you say that was a third of the distance from the flagpole to the Lyceum Building?

A. No.

Q. Would you say the distance would be a fourth?

A. I doubt if it was that far. They were still about forty or fifty yards away from the Lyceum Building.

Q. What then happened?

A. They walked in this direction, like this (indicating).

They walked toward the Lyceum Building in a westerly direction.

Q. Now did this young man who took hold of Walker's arm take a position just east of the monument, or not releasing his arm until he reached the position of W-2?

A. He didn't release his arm.

Q. What about the man on the left, was he holding onto Walker's arm, too?

A. Yes.

[fol. 1166] Q. And the three of them went along there, as you have described?

A. Yes.

Q. Were they in step?

A. I didn't notice if they were in step.

Q. Was anything said by anybody?

A. Mr. Walker walked straight ahead, with his head straight. I didn't see him look to either side. I didn't hear him say a word. As far as I know, he had not said anything.

Q. He said nothing that you heard?

A. Nothing.

Q. Go ahead.

A. They walked about ten or fifteen yards in this direction (indicating).

About ten or fifteen yards in a westerly direction.

Q. At that time had there been any tear gas fired?

A. No.

Q. From the time you saw Walker start from the monument area to this point?

A. I didn't see any.

Q. You saw them walk ten or fifteen yards toward the Lyceum?

A. Yes.

[fol. 1167] Q. And then what happened?

A. Then when they were about seventy or seventy-five yards from the Lyceum Building, then this tremendous group that was behind them—

Q. Was this group bigger than the group the whole day?

A. Bigger group, that I saw.

Q. All right.

A. They threw all of their rocks, small bricks or broken bricks and glass and stakes, and so forth.

Q. Where was Walker and these two other men at the time these bricks and things were thrown?

A. At the very front of the group.

Q. How far was it from them to the nearest man to their rear or east?

A. Behind them, about two or three or four feet.

Q. Walker and the two men were out in front by the distance you mentioned?

A. By that distance, yes.

Q. Then what happened?

A. They threw all of their things, as I said, and turned, and the tear gas hit in the middle or else in behind us, and it was quite heavy.

Q. Before or after the rocks were thrown?

A. After the rocks were thrown.

[fol. 1168] Q. All right.

A. And I watched as both these fellows let loose of Mr. Walker and turned. Mr. Walker turned and sort of ducked down, like this (indicating), and took off running, and so did the other two fellows, and so did I, and so did everybody else.

• • •

Mr. Gooch: Please turn to page 153, line 22.

Q. What happened then?

A. I heard him make some remark about, "Well, we'll get together and charge again," some comment or something about students, and, "We will charge again, the group will charge again." I don't remember what the exact words were.

• • •

Mr. Gooch: Now, I will turn to 155, line 4.

Q. Then what did you do?

A. As soon as he made the comment, I turned and ran to a 'phone.

. . .

Mr. Gooch: Please turn to page 160, line 1.

Q. Then when you returned, Walker was on the base of the Confederate statue.

A. Yes.

Q. Was he alone?

A. There were students around.

[fol. 1169] Mr. Watts: Excuse me, Mr. Gooch, at this point, may we just stipulate, for continuity, that all of this previous testimony occurred before Walker's speech on the monument? I think it would simplify matters.

Mr. Gooch: Yes, yes.

Mr. Watts: Save me reading a great mess.

Mr. Gooch: Yes.

Mr. Watts: This is the testimony of Van Savell, the AP newsman.

Mr. Gooch: Who wrote the article complained of.

Mr. Watts: And up to now, everything that has happened was before the speech on the monument?

Mr. Gooch: That's correct.

Mr. Watts: That will save me reading a lot.

Mr. Gooch: All I am doing is reading the whole thing in continuity.

Mr. Watts: Yes, that's all right, but some has been omitted. Saves me going back and reading it.

Mr. Gooch: Well, I—yes.

Q. Then when you returned—

Mr. Watts: Mr. Gooch, if you wouldn't mind, it will save a lot of time if you will read one question and answer on page 159, line 11 through line 18.

[fol. 1170] Q. Now, by my figures here, from following your testimony, that is the eighth phone call you made, and

the fifth call you made from Perkins' room. What did you see when you came back to the area?

A. As I got to the area, I saw Mr. Walker standing on a ledge of the Confederate statue.

Q. What was he doing?

A. He was talking.

Q. Had you at any time prior to this seen a young preacher, Mr. Duncan Gray?

A. Many times I have seen him, yes.

Q. Had you seen him that evening on the campus?

A. No.

Mr. Gooch: Beginning at line 1, page 160. Do you want to stop here or go on?

The Court: No, we can go ahead and stop. Let's recess until a quarter of eleven.

(20-minute recess.)

[fol. 1171] Mr. Gooch: Page 160, Line 1, is where we got to.

Q. Then when you returned Walker was on the base of the Confederate statue?

A. Yes.

Q. Was he alone?

A. There were students around.

Q. Was there anyone else up on the statue with him?

A. No, sir.

Q. Could you hear anything he was saying?

A. Yes.

Q. What did you say?

A. As I saw him, I heard the word "Cuba," I heard him say "Cuba," and I continued running to the area, and he sort of lapsed for a moment, or a few seconds, didn't say anything.

Q. Wait a minute. From what direction were you approaching?

A. I was approaching from the northwest, or northeast, more northwest.

Q. What was the size of the group of people around him at that time?

A. Several hundred.

Q. How did it compare with the group that participated in the alleged charge that you have described, which was the fourth charge?

[fol. 1172] A. The people in the area of Walker were smaller, but there were more than that; a thousand people within a hundred fifty or two hundred yards of him.

• • •

Mr. Gooch: Picking up—do you want me to read the rest of that? It is descriptive only.

Mr. Watts: No.

Mr. Gooch: Line 13, Page 161.

Q. As you approached on the scene, you heard Walker say something about Cuba?

A. I heard the word "Cuba".

Q. Did he have his hat on at that time?

A. I guess he did, yes, sir.

Q. What next did you hear him say?

A. I heard him say something about somebody, he made the comment about somebody had betrayed Mississippi.

Q. Somebody had betrayed—

A. Yes.

Q. Do you remember who he said?

A. Didn't say who, he said, "Somebody has betrayed you."

Q. In other words he used the words, "Somebody has betrayed you"?

A. Yes.

Q. Go ahead.

A. And immediately there were comments, "Who, who?" [fol. 1173] And he didn't at first make a comment, just "Governor Barnett."

Q. What comment?

A. He just said, "Governor Barnett," but it was his voice. I was within 10 feet of him at this time.

Q. Which direction were you from the statue?

A. To the northeast, in the road just off the curb.

Q. Where was he from the statue?

A. He was on the north side of the statue.

Q. Facing toward the north?

A. No, facing to the east.

Q. But he was standing at the north side of the statue?

A. Yes.

Q. The statue then was on his right?

A. Yes, more or less.

Q. Go ahead.

A. And he stood there, he made this comment, almost inaudible, it was inaudible to most people, about Governor Barnett.

Q. What period of time—

A. He made this comment about Governor Barnett, in a low voice, and I heard it, and then he stopped and leaned over and talked to a fellow, I don't know who the fellow was, and there was a period of time when he was talking to this fellow, and leaning on this fellow's shoulder, and then [fol. 1174] he reared back up and said, "Birdsong, Birdsong has betrayed you."

Q. Is that all?

A. No, that is not all. Then he made a comment about, "We can win," or "You can win." "If you don't think you can win go home, leave the campus, but we can win."

Then he made a comment about "keep protesting. You may not win but you will be heard," and he said, "This is a dangerous situation. You must be prepared for possible death. If you are not, go home now."

When he made that comment I immediately turned and left and ran for the phone.

Q. Now is the outline you have given us in chronological sequence?

A. I am not certain of that, no, sir. Well, there were many other things he said.

Q. Tell us everything.

A. That's all I remember, this is all that I—just at the present time that is all that I—well, he said other things, which were practically the same thing, meant the same thing, but were said in different words.

Q. How long did you hear him speak?

A. Four minutes or five minutes at the most.

Q. Did you on that occasion see anyone that you knew?

A. No one but Walker.

[fol. 1175] Q. Have you heard since or talked to anyone who heard substantially the same things you heard?

A. No, sir.

Q. Then as I understand, you raced back to the telephone?

A. Yes.

Q. And reported Walker's speech?

A. Yes.

. . .

Mr. Gooch: That is through Line 8, on Page—Line 10 on Page 164.

Page 166, Line 6.

Q. You made notes on Walker's speech?

A. Yes, sir.

Q. What did you do with those notes?

A. Those notes, the last time I saw them, were at the hotel on yellow legal paper, that's what I typed the story on.

Q. Do you know where they are at this time?

A. No, sir.

Q. Could you give us as near verbatim as possible what your notes were about?

A. The notes said that "Somebody has betrayed you." And the students asked, "Who, who, who?"

And Mr. Walker said almost inaudibly, "Governor Bar-[fol. 1176] nett," and then he leaned down and talked, as I said before, and he got back up and said, "Birdsong, Birdsong has betrayed you."

Q. Did you have that in your notes?

A. I did not put that in my notes, because I could remember it. I had Governor Barnett down, and I did write

a B down there, I know that, and later used it, and then, that he said, "If you don't think you can win—" or something like that, "If you don't think you can win go home, leave the University, but we can win." Then he made some other comments, as I remember it, and then there were remarks almost along the same line, peppering the students up, and then he made the comment about "You may not be able to win, but you will have been heard."

And he said that, "This is a dangerous thing." Then he said, "If you are not prepared for possible death, go home now."

He paused and immediately started talking about the Kennedys, and I left and went to the phone.

Q. Then he was not through with his speech when you left?

A. No, he wasn't.

. . .

Mr. Gooch: Turn now to Page 168, Line 2.

Q. The Marshals were still firing at the time Walker [fol. 1177] was speaking?

A. Yes, sporadically.

Q. Were there any charges, or rocks being thrown at that time, any rock throwing going on at that time?

A. I didn't notice any that impressed me enough to stick in my memory. There were no large charges that I saw again that night.

Q. Did you hear Walker at any time mention the word, "Violence"?

A. I believe that when he was talking he made a comment about violence.

Q. What was the comment?

A. I can't remember exactly, but something about that—I don't think it was the word "violence". I think the words were something like, "This is violence,—"

The comment is familiar to me, but I didn't take it down as a note, that I remember, didn't use it, anyway.

Q. Did you hear him say anything like, "avoiding violence"?

A. Not at this time, that I remember, no.

Q. Did you at any time hear anything about avoiding violence?

A. Later when talking to students, when I was talking to students, yes.

Q. You mean later that night?

[fol. 1178] A. Yes.

Mr. Gooch: That is through Line 25, on Page 168.
Page 170, Line 22.

Q. What was the attitude of the crowd as he spoke?

A. Their attitude was, I think there were several cheers for him, and in addition they appeared to be restless, they kept saying, "Come on, let's go, let's go."

But there were quite a few cheers when he said, "If you are not prepared for possible death, go home now."

Q. And that brought cheers?

A. That brought cheers, yes.

Mr. Gooch: Then on Page 171, Line 12.

Q. I wish you would relate to me in chronological detail everything else you heard or saw Walker say or do.

A. I kept an eye on Walker from a distance. I went back and I was talking to Sterling Slappy again, I met him, and we talked a little bit and he said, "Have you seen Walker?"

And I said, "Yes, I have," and he said, "Well, I haven't. Where is he?"

And I said, "He is over there," and pointed to the group and he was still there, and then Sterling left me and went towards the group. I don't know whether he actually went [fol. 1179] to the group or not. Then I went on, and by that time they had brought up a fire engine, up into the grove area of the campus, and so I kept an eye on them as they were charging the Marshals with the fire engine, and also using that to try and put out the tear gas bombs.

Q. Was Walker participating in that in any way?

A. He didn't seem to. He was still down in the area where he was talking to this group, and I kept watching this group, and finally one of the boys in the group—I felt like they were students, they were young, very young—one of them had on an "Ole Miss" jacket and they made a charge, fire engine, and they were busy themselves at this time, and they went right on up to the sidewalk and across the street, and they were right next to the Marshals, the Marshals had to jump out of the way, and at the same time a couple more were hanging out and swinging with their stakes, and then turned around.

Q. You mean the students or the Marshals?

A. The students had stakes in their hands, and were swinging at the Marshals, and went to turn up, went back around, and they were going about 25 yards in front of the Lyceum Building, and started to turn around to, began to back-up, but the Marshals had charged on them, and the Marshals captured the fire engine and the five people involved, and that quieted the fire engine for that time. [fol. 1180] In between the time I saw Walker there and the next time I saw him, they brought out a bulldozer. They tried to get it started to go by itself, and go after the Marshals.

Q. Did Walker have any participation in that?

A. No, sir. They had the fire engine, I mean the Marshals finally captured the bulldozer. About that time I saw a huge fire ball flash in explosion, just a fire over the side there in the street, and I heard somebody comment about Molotov cocktails, and I ran into the area where I was told they were making them.

Mr. Gooch: Skipping down to Line 17, on the same page.

Q. All right.

A. And I went over there and there was a big gasoline can there and bottles they had.

Q. Who was "they"?

A. People, ten or twelve or fifteen of them.

Q. How many?

A. There were quite a few, quite a group of students standing at the Fine Arts Building, many of them I knew, and I went over and I asked them something, asked how long they had been there, and they told me, and I think I was there five minutes and I came back, and they were making or had tried two more, and both of them just flared [fol. 1181] into fire, didn't reach the Marshals and didn't explode, and it made them quite mad, and about that time, why, somebody hollered "We will get Mr. Walker to tell us how to make them." And I paid no attention to that. In a matter of a minute or so, here was Mr. Walker, walking this way.

Q. Where they were making the Molotov cocktails?

A. Yes. And he listened, one of the students asked "Will you help us make some Molotov cocktails, or show us how? Ours are not working." And he made no comment but nodded his head, and didn't do anything. Then finally one student said, "Well, we are having trouble with these damn tear gas bombs. How can we put these things out? Water doesn't help?" And he suggested using sand.

Q. This was still in the area north of the oval, where they were making the cocktails?

A. Right in that area.

Q. And he suggested the use of sand?

A. He suggested the use of sand, but he said, "Where can you find it?"

Q. Who is "he," Walker or the boy?

A. Mr. Walker said, "Where you—can you find it", or "Where can they find it," and one of the students said, "Oh, we can find it," and that's all the comment of Mr. Walker; and he turned around with a couple of students and walked back into the general area of the monument. I [fol. 1182] walked back, and I saw him down there talking to some people, and I saw no reason to stick around, and I went to a telephone.

Mr. Gooch: That is through Line 7.

Mr. Watts: Would you mind reading just the next two questions and answers?

Mr. Gooch: Not at all.

"Question: Same phone?

"Answer: Same."

Mr. Watts: May we agree, in order to save reading a lot of this deposition, that that phone is in Lebuve, in this building?

Mr. Gooch: It is in Lebuve Hall.

Mr. Watts: Well, this says Lebuve Hall.

Mr. Gooch: Yes, sir.

Mr. Watts: May we also agree that this scale here is applicable to this map.

Mr. Gooch: Yes, sir, so far as I know. How many more do you want me to read?

Mr. Watts: Just the next two.

• • •

Q. Now this would be, by my record, of your telephone calls, Number 10. What did you report at that time?

A. The fact that they were throwing Molotov cocktails [fol. 1183] and I said three of them had been unsuccessful and there had been no explosion, and I said they had asked General Walker how to make them and that he had made no comment, and then nodded his head as if to say, "No,"—

• • •

Mr. Watts: That is as far as I am interested in. The rest of it is repetition.

Q. You say he nodded his head no or yes?

A. Like that (indicating). Shaking it sideways as if to say no.

• • •

Mr. Gooch: And that is through Line 18, on Page 175. I believe that is all we have to offer at this time from the Savell deposition.

Mr. Watts: Would you mind reading two questions, or I will read the questions and you read the answers?

Mr. Gooch: Sure. What page?

Mr. Watts: Page 176, Line 4.

Q. Still up to this time had you seen anyone connected with the AP?

A. No.

Q. Any other newsmen except the one individual with U.S. News?

A. Not to my knowledge, no, I hadn't.

Q. You had seen no one connected with the UPI?

[fol. 1184] A. No, no, not with the UPI . . . I went back to the area, the route I was taking the first time.

Q. That would be around to the south?

A. Yes. This time I got back there and I couldn't find Mr. Walker.

Q. Wait. First you went back to the phone and reported in this incident about Walker?

A. Yes.

Q. Telling them about the sand?

A. Yes.

Q. Then when you went back there, you went this way, and did you take the north or south route?

A. No.

Q. When you went to the phone?

A. I started to take the north route, but when I got there I found tear gas, so I couldn't stand it.

Q. Where?

A. There is a valley between the Fine Arts and the Math Building. I had used it before, but the gas, tear gas was so thick in that area that I couldn't stand it even with a wet towel around my face, so I turned around and went back this way, went back to the south, to the phone, made my report and went back to the area of the monument by way of the southern route.

. . .

[fol. 1185] Mr. Watts: May we agree the southern route would be roughly starting at Lebuve Hall, and roughly in this direction (indicating).

Mr. Gooch: Whatever the map shows.

Mr. Watts: All right, that is all.

[fol. 1186] Mr. Watts: Mr. Gooch, I have one other short one on page 8 I would like to read if you don't mind reading the answer. Page 8, line 14.

Mr. Gooch: Be glad to.

Mr. Watts: On the previous line, to tie it into continuity.

I had asked the question: "Were you given any briefing as to the slanting of the news?"

The answers was: "I was told there was no such thing, strict facts and nothing else.

Question: "What did you understand to be slanting of the news?"

Answer: "Slanting of the news, possibly reporting the facts, but at the same time reporting it for only one side."

Question: "Over-emphasis on one side?"

Answer: "Certainly."

Mr. Watts: That's all. Any more deposition, Tiny?

Mr. Gooch: Not this witness.

Mr. Watts: Are you going to offer any more depositions now or shall I offer a witness?

Mr. Gooch: No, you can go ahead.

Mr. Watts: Mr. Dornblaser.

[fol. 1187] JOSEPH DORNBLASER, called as a witness by the Plaintiff, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Watts:

Q. Your name, please, sir?

A. Joseph Dornblaser.

Q. Have you been in the Court room at any time since this trial has been going on?

A. I have not.

Q. All right, sir. What is your—briefly—your background?

A. I entered the Army in 1917 and retired with the grade of Colonel in 1948.

Q. Were you in a combat branch or support branch?

A. Mostly support branch.

Q. Did you have occasion to become acquainted with General Walker?

A. Yes, sir.

Q. First when?

A. About 1930.

Q. Did you have a specialty in your Military duties?

A. I was used largely for the purchase of horses and [fol. 1188] mules for the cavalry and the artillery.

Q. To shorten it and lead you a little, was that what was known as the "remount service"?

A. Remount service, yes, sir.

Q. Did you buy horses and mules all over the ranch country of Texas?

A. Yes, sir.

Q. While you were out there on these assignments, did you ever read any newspapers?

A. Yes, sir.

Q. What newspaper did you find to be the primary news organ in that area?

A. Well, it was definitely the Star Telegram. That would seem to be the Bible of all the ranch people.

Q. And what was your connection with Walker in those—in the 30's?

A. Well, we were both interested in horses and they had a ranch at Center Point and that was one of my favorite stops, so I could stay all night there.

Q. And did he stay active in connection with the horse. . . . ?

A. Yes, he did. He was. . . .

Q. Did you have any contact with him after World War II?

A. Yes, sir, I was—while I was commanding officer of [fol. 1189] the Southwestern Reinount Station at San Angelo, Texas, he came up and many times to visit me and also to take part in the horse shows there and, in addition, I was stationed for about a year at Fort Sill with General Walker.

Q. Prior to October 1, 1962, what was General Walker's reputation as a capable and competent Army officer?

Don't answer this until I finish the question.

Mr. Gooch: To which we object.

By Mr. Watts:

Q. Capable and competent Army officer as you knew it generally.

Mr. Gooch: I object.

The Court: I would have to sustain that.

By Mr. Watts:

Q. All right. Now, then, did you have—where did you live in September and October of 1962?

A. Forth Worth, Texas.

Q. Were you retired?

A. I was retired.

Q. Did you read the Forth Worth Star Telegram?

A. Yes, sir.

Q. Did you have occasion to read these articles that we have outlined that said Walker led a charge of students on the Ole Miss campus on the night of September 30th, 1962?

[fol. 1190] A. I did.

Q. What impression did that have on you concerning General Walker after you read those articles?

Just a minute.

The Court: Just a minute, please. Ladies and Gentlemen, will you step into the Jury room for a moment, please?

[fol. 1197] (Jury returns to the Court room.)

By Mr. Watts:

Q. What was your rank when you retired?

A. Colonel.

Q. Now, then, Colonel, did you know—answer this yes or no—the reputation of General Walker in the Fort Worth community and in the ranching area to the south and southwest served by the Fort Worth Star Telegram prior to September 30, 1962?

A. Yes, sir.

Q. What was his reputation as a peaceable, law-abiding citizen prior to that publicity that I have outlined? By the Fort Worth Star Telegram, as taken from the Associated Press publication? Was that reputation good or bad?

A. It was good.

Q. All right, sir. Now, then, you were familiar, as I understand, with these articles in the Fort Worth Star Telegram as published from the Associated Press sources [fol. 1198] that said he was leading a charge against U. S. Marshals, were you familiar with those articles?

A. Yes, sir.

Q. And after those articles were circulated in this same area, was his reputation good or bad?

A. Bad.

Mr. Watts: That's all.

Mr. Gooch: No questions.

The Court: You may step down, sir. I will release this witness.

CHARLES MAY, called as a witness by the Plaintiff, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Watts:

Q. You haven't been in the Court room during the course of this trial, have you?

A. No, sir.

Q. State your name, please?

A. Charles Joseph May, III.

Q. Where do you live?

A. Pascagoula, Mississippi.

Q. What is your age?

A. I am twenty-three years old.

[fol. 1199] Q. Are you a student at Mississippi University?

A. Yes, sir.

Q. Since when?

A. Since 1958.

Q. What school?

A. I am now in the School of Law.

Q. What class?

A. I am in the senior class.

Q. What class were you in in September of 1962?

A. I was in my second semester.

Q. Sir?

A. I was in my second semester. I had gone to one summer session.

Q. Of Law School?

A. Yes, sir.

Q. Were you on the campus that night?

A. Yes, sir.

Q. Do you know where the so-called Circle is?

A. Yes, sir.

Q. Did you arrive in the Circle area before or after the Marshals fired tear gas?

A. I was there before.

Q. Would you outline to the Court and Jury, please, sir, exactly what happened immediately before this tear gas was fired?

[fol. 1200] A. Well, immediately before the tear gas was fired, there were the Marshals, around three or four hundred of them, had surrounded the Lyceum Building and were standing on the steps.

In front of the Lyceum, there were several huge troop trucks in which the Marshals had come. The students were gathered in front of these trucks.

The trucks were between the Marshals and the students. Between the students and the trucks were the Mississippi Highway Patrol, trying to keep the students away from the trucks and the Marshals away from the students, I guess.

Q. Now, immediately before the firing of gas, what was the distance of the closest student to the closest Marshal, as you saw it?

A. I would say about twenty or thirty feet, at the most, because they had these trucks and they, also, had the Highway Patrol in between the trucks and the students.

Q. All right, sir. What was going on?

A. Well, the students were jeering and they had rebel flags, waving the flags and cheering. And I think some cigarettes—some cigarette butts were flicked over toward the Marshals, out in the street toward the trucks.

And groups of students were standing around talking to the Highway Patrol, asking them what their orders were. [fol. 1201] And the Highway Patrol were trying, were pushing the students back.

At one time the students had moved up toward the trucks and the Highway Patrol then pushed students all the way back across the road into the Circle.

And around that time I was over near the Fine Arts Building.

Q. Is that to the northeast of the Lyceum?

A. Yes, sir.

Q. All right.

A. I was standing, I would say, mid-way between the Fine Arts Building in the road and the Lyceum. And all of a sudden, I heard these explosions and I thought they were cherry bombs or firecrackers or something.

And then I saw one Highway Patrolman fell and this gas started coming up in the crowd.

And so several of us pulled the Highway Patrolman over across the street and we didn't know whether he had been shot. And then we ran—I ran into a girl's dormitory, which is about two blocks, it's behind the Fine Arts Building. I don't know the name of it. But we ran into the lobby there because I had that gas in my eyes.

Q. Which direction?

A. It was behind the Fine Arts Building. I don't know the name of the dormitory there.

[fol. 1202] Q. Noting the scale on this map, and this distance here as 500 feet, are you aware of the approximate distance from the monument around north of the Fine Arts Building over to LaBuve Hall?

A. LaBuve?

Q. Yes.

A. No, sir, I don't know.

Q. Well, is this LaBuve Hall way over here northwest of the Fine Arts—of the Lyceum?

A. Yes, sir, yes.

Q. Over in here. All right. Now, I wish you would take this pointer and from there on to the best of the capability of your memory, explain to this Court and Jury exactly what you saw, where it was and what happened.

A. Well, when the tear gas was fired, I was standing, I would say, in this area (indicating), and after we drug the Highway Patrolman—he was shot in the back with a tear gas shell or something of that sort—and we ran around the, let me see, around—around this side of the Fine Arts Building and into Ward Dormitory here.

And at that time there had already been a crowd in there watching the President's speech on television.

And so I tried,—I got some water to wash out my eyes. And then I came back out of Ward Dormitory and came over here to this street (indicating); I would say I was [fol. 1203] right in here, between the "Y" Building and the Fine Arts Center, with a view of the Circle.

Here I met Dr. James Silver, who was standing there. He was a professor at the University of Mississippi in history.

And I stood there and we talked and watched all of the commotion out here in the Circle, stood there, I guess, from about 8:15 until 9:00 o'clock, somewhere around in that area.

Q. Now, in that period of time, was there any large mass of students—well, we will skip that—say, from a period of about ten or fifteen minutes after the riot first started, with the firing of tear gas, from that time on until you met Silver, was there any large movement of a great mass of people across that Circle area?

A. Yes, sir, right after the tear gas had been fired, there was not. There was a movement away from it, of course. Nobody knew what was going on.

And so I would say in about five minutes, by the time I came out of Ward Dormitory and down here, you could see little groups of people run across toward the Lyceum and some of the Marshals, at first they lined up like this (indicating), and would march across the Circle here like this and then crowds of students would come from this way or behind them or this way and sometimes the Mar-[fol. 1204] shals even ran down here and into the Grove and I know, because we were standing there, Dr. Silver and I, and students would run by, "Here come the Marshals," and we would both have to run to get away because . . .

[fol. 1205] Q. Now from the time this first movement until you left Dr. Silver, was there a movement of the students, or was it a sporadic activity by little groups?

A. It was just sporadic activity. I would say we had activity from over here around the Chemistry Building,

and from behind it, where the—here at Carrier Hall, from behind any of these buildings. You would have small groups of people.

Q. If within that period of time there had been a charge started en masse down here east of the Confederate monument with three leaders in front of it, and a line of a thousand people, and had moved within about 25 feet of this north curb, and had then moved down toward the Marshals and gotten almost to them, and at which time the tear gas—the missiles were discharged and thrown at the Marshals, the tear gas was fired, and all that group of people raced back to the monument, would you have been in a position where you would or would not have seen such an activity? Yes or no?

A. Yes, I would have seen it.

Q. Did such an activity occur at any time from the time this riot first broke until you were up there talking to Dr. Silver? Yes or no?

A. With 1,000 people?

Q. Yes.

[fol. 1206] A. No, sir.

Q. All right, have you outlined to us as best you can what did happen before you went up there and talked to Dr. Silver?

A. Yes, sir.

Q. All right, tell us then from that time on in details, relive in your memory, and tell this jury exactly what you saw.

A. Well, at about, I would say 9:00 o'clock, I saw there was a crowd of people over here toward the monument. And so I came around through the grove, behind the "Y" Building, and behind the Geology Building, into the street, and then I came up and I stood, I would say, right around here (indicating on map).

There was a pile of construction material—no, it was right about here. They had piles of brick and lumber stacked here.

Q. Was there a street immediately to the north of you?

A. Yes, sir, this—well, it was this junction right here (indicating).

Q. Did any vehicles come out of that street about that time?

A. Yes, sir, after I had been there two or three minutes I noticed that all the highway patrolmen were leaving, [fol. 1207] and some of them came up in here, and others came around through here, and through here (indicating on chart), and all the students started yelling, "Why are you all leaving?"

And they said—

Mr. Gooch: I object to that.

Mr. Watts: You can't say—

The Court: Sustained.

Q. Take your seat.

A. Sir?

Q. You may take your seat. Don't tell what the highway patrolman said, but what were the comments when the highway patrol left?

A. The students were all yelling, "Why are you going; why are you leaving us?" And I can't tell you what they said?

Q. You can tell what the students said but not what the highway patrol said.

A. Well, they were all yelling that, "Why are you all leaving, why don't you all stay?"

Q. Go ahead.

A. And about this time all the highway patrolmen were moving out, and I guess there were—I don't know, 40 or 50 cars, may be more, and, anyway, they all pulled out and all the students were out there waving at them, and asking them to please stay, and then I heard someone say, "Well, [fol. 1208] here comes General Walker." Somebody in the crowd. It started as murmuring, you could hear a little murmur through the crowd, so I stood there on this pile of lumber and General Walker was in the—when I first saw him he was just in the general vicinity—can I show you?

Q. Sure.

A. I was in this general vicinity here (indicating on chart), and he walked around here. I stood on this pile of lumber right here and I believe there was a light, a vapor light there, and General Walker walked around back and forth, and people would come up to him and shake his hand, and—in groups of two or three—and stand around there, and he stood around there in the crowd, and people would go up to him, and I think he gave some autographs or something, and anyway, he just stood there talking to people, and walking around, and he just walked back and forth in front there of the statue.

He might have gone up behind it. I didn't notice, but anyway for a while he just did that, for a while, and after a while went—when all the highway patrolmen had left they kept hollering, "General Walker, will you give us a speech; speech, speech."

You could hear it, all the yelling out in the crowd, so finally General Walker moved over toward the monument, and he stood around talking to the people at the monument a [fol. 1209] couple of minutes, and I think some—two boys boosted him up on the monument.

Q. Where did you go from there?

A. I moved up as close as I could to the monument.

Q. About how closer were you?

A. I was, I would say, in the middle—in the middle, half-way towards the front.

Q. Could you estimate in distances in the room here something that is an equivalent distance?

A. I would say I was as far as from here to the last juror over here, the lady in the corner (indicating).

Q. And did you hear what General Walker said from the monument?

A. Yes.

Q. Prior to that speech had you heard any comment by the students about Governor Barnett?

A. Yes, they kept asking the highway patrolmen, "Why are you all leaving, has Ross sold us out?"

Everybody calls him "Ross", in Mississippi.

Q. All right, go ahead.

A. And the highway patrol wouldn't say anything. They said, "We don't know, we haven't—all we have is orders to leave."

Q. Now then did you hear General Walker's speech?

A. Yes, sir.

[fol: 1210] Q. Tell the jury as nearly as you can remember what was said.

A. Well, the students asked General Walker the same thing they had asked the Highway Patrol, they kept yelling, "Has Ross sold us out, has Ross sold us out?"

And General Walker stood up there on the statue and he said, "I can assure you. . . ." He said, "Your Governor has not let you down. I just returned from a meeting downtown in Oxford and I can assure you it is not your Governor."

And at this time we had some—there were people applauding and everything, and then he said, "What are these troops doing here? Cuba is that way."

And he pointed toward the south.

And he said, "This isn't the way to Cuba."

He said, "Under the Constitution you have a right to protest but if there is any blood shed, let it be on the hands of the Federal Government."

He said, "We must stop this, we must stop this riot."

And the people booed and jeered, and a lot of people left then.

And I heard people say, "He is no good; he ought to be out here leading."

And I would say about one-quarter of the people left [fol. 1211] when he said that.

And people kept yelling, "Who sold us out if it wasn't Ross?"

And he said, "I can't tell you now. I cannot divulge that. I have learned at a meeting downtown in the courthouse. . . ." I believe he said that, "But I can't divulge it now."

And they kept yelling, "Who was it; who was it?"

And the people were booing and jeering and everything, and General Walker leaned over and talked to a couple of men standing there and he stood up and he said, "It was Col. Birdsong."

At this time a lot of people didn't know who Col. Birdsong was, and they would yell, "Who is he," you know, and he said, "He is your Highway Director."

And about this time the Episcopal priest there, Duncan Gray, Reverend Duncan Gray walked over. He came from the "Y" Building, from the vicinity of the "Y" Building, and moved over towards the statue.

And he walked up towards the statue and I couldn't hear what he said to General Walker, but I saw a fellow who, I later found out was a Sheriff, grab him, grab Duncan Gray, and two students, and pulled him back through the crowd. Because the crowd was surging in on him, and General Walker said, "This man makes me ashamed I am an [fol. 1212] Episcopalian."

And after that time they took Reverend Gray back into the "Y" Building, the Sheriff and these other two men.

And I stood there for a while and that was about all I can remember about the speech.

Q. Were you there when General Walker got down off the monument?

A. Yes.

Q. What did he do, where did he go?

A. Well, he stood around in front of the monument for about—well, I couldn't estimate the time, really. Probably upward to 15 minutes, and I wanted to go—that was the first time that I had ever seen him and I wanted to go shake his hand.

And so I—

Q. He stood in the vicinity of the monument for 15 minutes?

A. Yes, sir, I would say 10 or 15 minutes.

Q. All right, go ahead.

A. And, well, I walked over toward him. There was a group of people around him talking to him and shaking his

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hand and everything, and I would say I don't know how many, but it wasn't but, maybe, 15 or 20 in his general area.

Q. Did you go over and shake hands with him?

A. Yes, sir, I got up—

[fol. 1213] Q. Did you talk to him?

A. Yes, sir, and people were asking him questions. Can I tell you some of the questions?

Q. Well, I don't believe you'd better say what they told him. You can say anything you heard General Walker say.

A. I asked him, I said, "General Walker, do you think if you were in charge here you could stop the riot?"

And he said, "Hell, if I had been in charge here we wouldn't have had a riot."

And then other people were asking him things like that, and—let's see.

Well, anyway, he was moving around at this time, sort of moseying back and forth in front of the statue there, the Confederate statue, so after I had talked to him a few minutes I went back and stood on that pile of lumber back there, you know, where I could see pretty good, and he wandered around the statue there and most of the people had gone home—well, I don't know where they went, but most of the people had left the area, and had either gone back behind the Chemistry Building there, or behind the Fine Arts Center back there, or over towards that.

Because they were burning some cars over there and—

Q. And what did you do then?

A. I stood there about, I would say, five or six more minutes on top of that brick, and nothing was happening, [fol. 1214] so I went downtown—I went out on University Avenue and caught a ride downtown with a Sheriff.

Q. Did you see General Walker anymore?

A. I didn't see him any more that night.

Mr. Watts: That's all.

Cross examination.

By Mr. Gooch:

Q. Mr. Mays, directing your attention to the period of time after the tear gas was fired, I believe you stated generally, and correct me if I am wrong, that there was quite a bit of surging towards the Marshals by groups of some size after the gas was fired, is that correct?

A. Yes, sir. Not immediately after.

Q. Well, at any time after?

A. Yes, sir, after—well, that goes into the next day.

Q. And that was happening prior to the time that General Walker got to the campus?

A. Yes.

Q. Was it happening during and at the time General Walker got there?

A. No, sir, I would say that was the quietest time during the riot.

Q. All right. Now, where was the—what would the students throw at the Marshals?

[fol. 1215] A. In the vicinity of the Science Building they had stacks of bricks, and I believe they threw bricks, mostly. I didn't ever go up in the circle myself.

Q. I take it you didn't participate in any of the rioting?

A. No, sir.

Q. How would these groups form? Would it just be spontaneous, and go forward and some of them throw their rocks, bricks and so on?

A. Yes, sir, I would say in groups of maybe five or ten.

Q. Well, now where would they detach themselves from? Would you say that the people were scattered completely out, or was there any grouping? You mentioned a crowd a time or two in your statement.

A. Yes, sir.

Q. Would they detach themselves from the crowd?

A. Yes, sir.

Q. To run up and throw the brick?

° A. Yes, sir. Right after the riot I would say you had your biggest crowd. Up until about, maybe about four or five minutes right after they shot the tear gas. You had your biggest crowd, but the Marshals kept firing this tear gas and it kept building up and so most people left. Or the larger majority of the people had left after about 45 minutes, it [fol. 1216] was so gassy around there.

Q. Well, I understood you to say that there was a crowd?

A. Yes, sir.

Q. Around the monument at the time General Walker came on the campus?

A. Yes, sir, but it wasn't as big as the crowd that had been there when they fired the tear gas.

Q. Well, most everything is relative, isn't it, Mr. Mays?

A. Yes, sir.

Q. Had that crowd that had come down around the monument, had some of them detached themselves from the crowd prior to the time he got there and gone up and thrown something at the Marshals?

A. I couldn't say whether they did or not.

Q. The source of supply of the brick, at least, was about where you were standing?

A. Yes, sir.

Q. I guess you were able to observe quite a few of those brick and stone was being hauled from your vantage point over to the students doing the tossing, is that correct?

A. No, by the time I had gotten there, you see, that was one of the quietest times during the riot. I wouldn't have [fol. 1217] ever come around there if—if they would have been charging.

Q. That wasn't the question I asked you.

A. Yes, sir.

Q. Were you as close to the source of supply of the bricks and stones and sticks from the new construction—

A. Yes, sir, I would say so.

Q. Did you see any students coming in and around that construction where you were standing and picking up sticks,

stones and whatever they could get to be used as missiles toward the Marshals?

A. Yes, sir.

Q. Was that almost continuous throughout the night?

A. No, sir. Not the time—it was not continuous the time I was there.

Q. You say it was continuous?

A. You—no, sir, it was not.

Q. When did it stop?

A. Well, when I first got there there were a few people milling around in the streets. By the time General Walker had started talking on the statue there was no rioting at all then. There was no charges.

In fact, the Marshals were still firing tear gas, and they fired some of these rockets that would reach all the way from the Lyceum back toward us.

[fol. 1218] Q. By the way, you say, "Those charges". Now, what do you describe as a charge?

A. A group of maybe—well, I don't know, in talking about this, talking about the riot. I would say maybe eight or ten people running toward the Lyceum throwing brick.

Q. That would be your definition of a charge? You have used that several times.

A. Yes, sir.

Q. All right. Now you say when you first saw General Walker coming on the campus he was greeted by "Here is Walker." Did you hear them say anything about, "Here is our leader"?

A. No, sir.

Q. Had you heard any previous word prior to this night that General Walker might be coming ten thousand strong?

A. I think I might have read it in the newspaper.

Q. Did you hear the expression, "Bring your flag, your tent and your skillet?"

A. I couldn't swear to it. I might have, yes, sir.

Q. But you had heard that General Walker was re-

ported to be on his way to Mississippi with 10,000 strong. Did you hear that?

A. Yes, sir.

Q. All right, did anybody ask him where his volunteers were when he came on the campus?

[fol. 1219] A. I didn't hear it.

Q. You didn't hear it?

A. No, sir.

Q. But did you hear a number of them say, "Here is General Walker."?

A. Yes.

Q. Anything said about "Here is the moral support we need, here is our leader"?

A. No, sir, I didn't hear that.

Q. Now prior to the time that this gas was fired up around the Lyceum Building, did you see anything being tossed at the Marshals by the students, or thrown?

A. Yes, sir, they were flipping some cigarettes, and that is all I saw myself.

Q. Any pebbles, stones or rock or anything of that sort?

A. Yes, sir, could have been. I did not see it. I have read about that in the newspaper.

Q. Well, now when General Walker first came on the campus and you say some of them, at least, "Here is Walker," and shook his hand, then what did General Walker do?

Mr. Watts: If the Court please, I object to that as not within the evidence. This man said he didn't see Walker come on the campus. That when he came back and found him, he was down at the monument; after he was down at [fol. 1220] the building. That is a misstatement.

The Court: After you saw General Walker.

Q. Let me—I misunderstood you.

Mr. Watts: Yeah, I think you misunderstood.

Q. Do you know when General Walker first came on the campus?

A. No, sir.

Q. I misunderstood you. I thought you said you saw him as he came towards the monument. But you don't attempt to say now as to what time General Walker came on the campus?

A. No, sir.

Q. Well, I beg your pardon, I misunderstood your testimony completely. Then you don't know what General Walker could have been doing on the campus prior to the time you saw him, do you?

A. No, sir.

Q. You don't know whether he had walked up with a group toward the flagpole or not, prior to that time, do you?

A. No, sir.

Q. I believe you said if there had been as many as 1,000 you would have seen it, is that right?

A. Yes, sir.

Q. All right, we will go back then, and I do apologize [fol. 1221] to you because I thought you said you saw him come on the campus. It now develops he had been there for some time, or according to you some time?

A. Well, I never said some time.

Q. Well, you don't know how long he had been on there?

A. No, sir.

Q. At any rate when you observed General Walker the first time you saw him, was when they were urging him to make the speech?

A. Yes, sir. When I first saw General Walker the last of the Highway Patrolmen were leaving.

Q. All right.

A. And they kept asking why, they kept asking the Highway Patrol, "Why are you leaving?". And then they were finding General Walker and saying, "Why are they leaving, General?".

Q. Incidentally at the time the Highway patrolmen left that caused quite a group of people to run over to the highway patrolmen, watching them leave?

A. I don't know, sir.

[fol. 1222] Q. Well? you spoke of a number of people yelling to them—

A. Yes.

Q. —as to why they were leaving?

A. Yes, sir.

Q. And I assume that the people had gone over to watch them leave, or had they?

A. Yes, sir. See, well, a lot of people had lined—there were a line of cars all down University Avenue down to the bridge.

Q. Yes, sir.

A. And just—not many of them were students. But there were just a lot of—I saw, talked to a cab driver and two or three sheriffs out there.

Q. All right. At any rate, when General Walker—when they yelled, “Speech, speech, speech,”—and I think I quote you exactly on that?

A. Yes, sir.

Q. Did he agree to make a speech, or did he just start up to the monument?

A. Well, he didn’t agree at first to make a speech. They kept—

Q. I guess he finally consented—did he say so or just impliedly walk over there?

A. Well, from—they—it took a while, I believe. I don’t [fol. 1223] remember him going right up there immediately.

Q. I think I quote you when you said that two people boosted him up on the monument?

A. Yes, sir.

Q. Do you know who those two people were?

A. No, sir.

Q. How did they boost him up there?

A. Just sort of took him by the arms and helped him up.

Q. And you don’t know who those people were?

A. No, sir. There might have been two or three, I’m sorry about that.

Q. All right. And you heard him say something about, “What are the troops doing here?”

A. Yes, sir.

Q. Were there any troops on the campus there at that time?

A. Yes, sir, I believe so.

Q. Do you know what time the troops came in?

A. Well, there were some Negro troops driving those trucks that brought the Marshals.

Q. I'm talking about the Marshals around the Lyceum, had you seen the troops come in with bayonets at that time?

A. No, sir.

[fol. 1224] Q. What—did that occur later? You don't know when they came in, do you?

A. Yes, sir.

Q. When?

A. I think. They came in around 12:00 midnight.

Q. You were a long way from the campus at that time, as I understand your testimony?

A. When?

When the troops finally came in?

Q. Yes, sir.

A. No, sir, I was over by the—I think I had gone back and talked to Dr. Silver again after that. See, I went—

Q. I understood you to say that shortly after Walker, within twenty minutes after Walker's speech, you left and went back to town?

A. Yes, sir.

Q. Did you come back?

A. Yes, sir. I was trying to call home.

Q. Oh. Then the first you heard of any troops being on the campus was around 12:00 midnight?

A. Yes, sir.

Q. All right. Then all your conversation with General Walker occurred before that time, did they not?

A. Yes, sir.

[fol. 1225] Q. All right. Then all your conversation with General Walker occurred before that time, did they not?

A. Yes, sir.

Q. And the speech on the monument was about what time? Would you estimate that?

A. No, sir, I couldn't. Maybe 9:30 or 10:00, right in there somewhere.

Q. 9:30 or 10:00?

A. Yes, sir.

Q. And you don't know, of course, what time General Walker got on the campus that night, do you?

A. No, sir.

Q. All right. Now, I believe you stated that you heard him say something about Cuba?

A. Yes, sir.

Q. What was that?

A. He said, "What are these troops doing here? Cuba is this way (indicating)," or, "That's the way to Cuba," one. It was something like that.

Q. He said, "What are those troops doing here?"

A. Yes, sir.

Q. Did you see any troops at that time?

A. No, sir.

Q. All right. And I believe you said that you have a right to protest?

[fol. 1226] A. Yes, sir—he said, "I remember he said, "Under the Constitution, you have a right to protest."

Q. All right. Now, what sort of protest had been occurring prior to that time?

A. Well, just the riot, I guess.

Q. Throwing rocks?

A. Yes, sir.

Q. Sticks and bottles?

A. Yes, sir.

Q. And stones at the Marshals, hadn't they?

A. Yes, sir.

Q. All right.

A. You didn't finish the statement there, though, sir. That wasn't the whole statement he made. That wasn't the whole sentence. You have taken part of it there.

Q. I thought you said, "You have a right to protest under the Constitution"?

A. Yes, sir, but, he said, "But, if there is any bloodshed, let it be on the hands of the Federal Government."

Q. "But if there is any bloodshed—

A. Yes, sir.

Q. —let it be on the hands of the Federal Government"?

A. Yes, sir.

[fol. 1227] Q. Well, I was going to get down to that next but I'm glad you brought that in.

A. Yes, sir.

Q. Because the rioting had occurred and everybody knew about that at that time, didn't they?

A. Yes, sir.

Q. And he was saying, "You have a right to protest but if there is going to be any bloodshed, let it be on the hands of the Federal Government"?

A. Yes.

Q. Is that what he said?

A. Yes, sir, he said, "There must be an end to this rioting."

Q. Yes, sir. Did he say, "Violence is not the answer?"

A. I don't remember that, I'm sorry.

Q. Did he say, "Nobody intended violence?"

A. He might have. I don't remember all—that's all I remember of—

Q. Did he say, "Neither Governor Barnett and myself have told you use violence;" did he make those, did he make that statement?

A. I couldn't swear to it, sir.

Q. Well, what did he say about a peaceful protest?

A. All I remember is, he said that, "Under the Constitution, you have a right to protest. But if there is any bloodshed, let it be on the hands of the Federal Government."

And he said, "There must be an end to this violence," or, "We must stop this violence." Or, "We must stop this riot," or it was something to that effect.

Q. Well, now, which did he say, "The rioting" or "The violence"?

A. I couldn't swear to it, sir.

Q. All right. Then he was asked if—or at some time, at least, he was asked if Ross had sold them out?

A. Yeah, the crowd asked him.

Q. Now, you knew at that time, did you not, that Governor Ross Barnett was still protesting the entrance of Meredith into the University, didn't you?

A. No, sir, I didn't know. I had heard Governor Barnett's speech on the radio about, I think it was, 7:30, and he made the statement, "Our heads are bowed, but let's try to be honorable," or something like that, and I didn't know what that meant.

Q. I see. What—but, at any rate, he told the students there that Governor Barnett had not sold them out?

A. Yes, sir.

Q. You knew that prior to that speech, which you say [fol. 1229] you heard, that Governor Barnett was still standing on his original position of keeping Meredith off of that campus, didn't you?

A. Yes, sir, before that speech.

Q. All right, sir. Then I believe you said that when they kept asking him who it was that sold them out, that he said he wasn't at liberty to disclose it, is that what you said?

A. Yes, sir.

Q. Just how did he put that? Did he say, "I am not at liberty—

A. He said, "I cannot divulge that at this time." He said, "I have just returned from a meeting at the Courthouse and I cannot divulge that at this time."

Q. Did that mean by you (sic) that he was holding something back on an implied promise or something?

A. Yes, sir.

Q. But he finally, at the insistence of the crowd, said it was Col. Birdsong?

A. Yes, sir.

Q. And I assume that he meant that the Governor, Barnett, was standing steadfast but that Birdsong was the one that sold them out; is that correct?

A. Yes, sir, I would . . .

Q. After General Walker came down off the monument, [fol. 1230] what did you say he did?

A. Well, he walked around and I would call it moseying, I don't know how to, any other word to explain it.

Q. That's a good word.

A. But he walked back and forth and groups of people would come over and shake his hand and talk to him, and that's when I went up and shook his hand and talked to him.

Q. Did he at any time after he came off the monument go toward the flagpole?

A. Yes, sir, I—yes, sir.

Q. How far did he go toward the flagpole?

A. I couldn't—I couldn't really say, sir.

Q. Was there any group around him or beside him as he went toward that flagpole?

A. It was not a group in itself. There were—he would just walk around, just . . . and walk—

Q. And everywhere he went—

Mr. Watts: Let him finish, please, sir.

The Court: Have you finished your answer, Mr. May?

The Witness: No, sir.

Mr. Gooch: Go ahead.

A. He was just, he would walk around and whenever he [fol. 1231] would walk, there would be four or five people come up and shake his hands, "Glad to meet you, General Walker," and then they would talk a minute and then they would leave. And wherever he went, it was that way—even days after the riot, all over the campus.

Q. Well, I am talking now, directing your attention—

A. Yes, sir.

Q. To after the speech on the monument?

A. Yes.

Q. Wherever General Walker went, there was a crowd around him, wasn't there?

A. Yes, sir.

Q. And do you say that he did not walk up towards the monument?

A. Yes, sir, he did walk up, up toward the monument.

Q. Do you know how far he walked up toward the monument—I mean the flagpole, excuse me. Did he walk toward the flagpole?

A. Yes, he walked on the other side of the monument, towards the Lyceum.

Q. Do you know how far or what distance he walked from the monument to the flagpole?

A. No, sir, I wouldn't—if I can explain, see, I was standing there on that group of bricks and lumber there and he [fol. 1232] would just sort of walk up toward this way and then he would maybe move around and just walk around in circles, I would say; and he walked up there a little bit and then he would walk, and then maybe he would walk up there again. And after about ten minutes I thought nothing was going to happen and so I left.

Q. Was any tear gas fired any time you were in the presence of General Walker?

A. Yes, sir.

Q. When was that?

A. Before, during and after the speech.

Mr. Gooch: That's all, thank you, sir.

Mr. Watts: If Your Honor please, this lad has a summer job at the University of Mississippi and may he be excused? He has to get back.

The Court: Spell the name for the reporter, the city in which you live.

The Witness: Pascagoula, P-a-s-c-a-g-o-u-l-a (spelling).

The Court: Is your name May or Mays?

The Witness: M-a-y.

The Court: No "s" on it?

The Witness: No, sir.

The Court: All right. Ladies and Gentlemen, we will recess until 2:00 o'clock.

[fol. 1233] (Whereupon, the Court was recessed at this point until 2:00 o'clock of the same day.)

[fol. 1234] Afternoon Session

(2:00 o'clock, p.m.)

Mr. Watts: If Your Honor please, we will read now part of the testimony of Alan Gould, who is Executive Editor of the Associated Press. The deposition was taken in Fort Worth on March 25, 1964.

Mr. Gooch: Taken by you.

Mr. Watts: Taken by me. I propounded the questions, yes, sir, starting on Page 4.

ALAN GOULD, testified by deposition as follows:

Direct examination.

Q. Will you state your name, please?

A. Alan Gould.

Q. Your residence?

A. Residence, Greenwich, Connecticut. You want the street address?

Q. Your profession?

A. I am retired now, and I am a Consultant with the Associated Press.

Q. For what period of time did you work for or with the Associated Press?

A. Since March, 1922 until—

Q. What was your background?

A. Until I retired at the end of January, 1963.

[fol. 1235] • • •

Mr. Watts: Now turn to Page 6, the question at Line 6.

Q. What was your position?

A. My position was Executive Editor.

Q. And they left the post vacant when you retired?

A. Yes, for the time being. The responsibilities have been taken over by the General Manager of the Associated Press.

Q. What is his name?

A. Wes Gallinger.

Q. As far as you know has that position, as such, ever been filled?

A. No, sir.

Q. Describe for us, please, sir, your duties as Executive Editor.

A. I was in general charge of administering the news service of the Associated Press, including its various branches throughout the world.

Q. Now we have taken Mr. Relman Morin's deposition, and I understood from him that at each day at approximately 11:00 o'clock they had a meeting of the various heads of Departments in the Associated Press Headquarters in New York to consider various items in connection with your responsibilities. Is that an accurate statement of what occurred?

[fol. 1236] A. I am not familiar with what is occurring now.

Q. No, I mean what occurred when you were there? Did you have some type of executive meeting or Department Head Meeting every day to accomplish any particular purpose?

A. We would have meetings among the Department Heads to consider the current news situation daily. These meetings, as far as I was concerned, did not occur at any particular time, but were related to our activities, the news development, whatever planning and organizing we needed to do to cover that day's news. This is a continuing process.

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Mr. Watts: Now Page 8, Line 2.

Q. As of the first part of October, 1962, who were those individuals, and what were their assignments?

* A. Generally, the men who would get together included the General News Editor.

Q. Who was he?

A. The Foreign News Editor.

Q. Who was he at that time?

A. Sam Blackman.

. . .

Mr. Watts: Line 14.

Q. Foreign News Editor?

A. Foreign News Editor.

Q. Name?

[fol. 1237] A. Ben Bassett.

Q. Who else?

A. The General News Photo Editor, Al Resch, R-e-s-c-h, and such others as from time to time might have any particular reason for being included in these conferences, too.

Q. Who controlled or supervised that meeting?

A. I would from time to time, and Mr. Blackman, the General News Editor might.

Q. How long had you been Executive News Editor prior to the first of October, 1962?

A. I had the responsibility from December, 1941, about 10 days after Pearl Harbor, until I retired.

Q. I wish you would describe for us briefly, but in some adequate detail the organization and setup of the Associated Press.

A. You mean the news organization for which I was responsible?

Q. First, the corporate structure and the ownership, the operation, high level management.

A. There is no ownership of the Associated Press.

Q. I understand. It is a membership corporation?

A. It is a membership group. The members of the Associated Press elect a Board of Directors. The Board of Directors, in turn, selects the General Management.

[fol. 1238]

. . .

Mr. Watts: Now over to Page 10, Line 11.

Q. I wish you would describe to us the events that actually took place in this meeting; as a typical example of what occurred, that led you to send personnel into the Oxford, Mississippi, area in connection with the Meredith enrollment. Just give us a thumbnail of what occurred and who said what to whom. You can just pick a date of your own choice..

A. Well, actually, to clear up the matter of these meetings, you have asked a number of questions, and I am inclined to think that it might be useful to particularize more with regard to the question you have asked about these meetings, Executive Staff Meetings.

Q. All right.

A. The daily meetings, which were not any fixed time, but depended upon events, and which were attended by people directly concerned with the particular developments in the AP, were held as and when required for operational purposes during the day.

In addition to that, and perhaps this may bear on what you were asking about earlier, there would be weekly meetings of all executives in charge of the various departments and branches of the AP, which was designed chiefly to communicate departmental activities, and to exchange [fol. 1239] ideas and to discuss planning in the broader sense as it involved the general news operation of the AP.

I mention these distinctions chiefly so there will be no confusion about what time the get-together you are asking about, when we discussed these meetings.

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Mr. Watts: Page 14, Line 2.

Q. Go ahead and tell us then briefly, on the weekly meeting—I think you have covered the daily meeting fairly well, give us an example—start with the weekly meeting just prior to the Oxford incident, and just tell us or give us a blow by blow account of what occurred. Who said what to whom in the weekly meeting?

A. I couldn't attempt now to recollect a blow by blow description of the weekly meeting, Mr. Watts, but in general, each department would report what it was doing, what it thought was of general interest. Ideas might be advanced for particular stories or features.

Q. Give us an example of that. What do you mean?

A. Well, the development of the news situation. A particular example might be in a political year, which this is. We would know in general what the chief figures in the political campaign intended to do. We might discuss the assignments and the arrangements that would be needed in order to produce the news coverage for a given segment [fol. 1240] of the campaign. It might deal with various aspects of covering missile firing, particularly, of course, the orbiting of astronauts from Cape Canaveral.

Many of these great stories are immensely complex. They cross departmental lines: They involve arrangements and planning in a number of areas, as well as departments, so that the purpose there would be to discuss the various possibilities for both coverage, and for the assignment of staff people, and other aspects of the story of that kind.

Q. Now what personnel would attend these weekly meetings, and this time we are talking about immediately before or immediately after?

A. All available departmental chiefs of the AP.

Q. All right, in addition to Blackman—excuse me.

A. Some specialist would be there from time to time, such as Mr. Morin, who was a special correspondent of the AP, as you know, and covers a variety of news assignments.

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Mr. Watts: Over to Page 22.

[fol. 1241] Q. Now, that news is the composite result of individuals who observe the news?

A. That's right.

Q. Did the Associated Press, in organizing and arranging its coverage of the Oxford incident, select the indi-

viduals, the particular individuals, who would go to Oxford and make the report?

A. At various echelons, we did, yes.

Q. Who selected them?

A. Well, you have the staff in New Orleans and Mississippi to begin with. Then reinforcements are sent in as developments warrant by request of the Chief of Bureau in charge of our field forces, in consultation with other Chiefs of Bureau, who may have or may not have men available, in consultation with the New York control center, the general desk, so that in the aggregate of our operations, we select men who are available, who are qualified to go in and handle various aspects of a story of multiple angles.

Q. Who did you send from New York to Oxford?

A. From New York, my recollection is we sent Sam Blackman.

Q. Who is "we"?

A. I did.

Q. All right, sir.

A. The General News Editor.

[fol. 1242] Q. In other words, it was your sole responsibility as to who would go?

A. No, it was my ultimate responsibility but I did not select or decide a lot of assignments. It was not my function to do so.

Q. Who did?

A. It was the function primarily of the Chief of Bureau. Then when you go beyond that, it can come to New York and the general desk can cooperate in providing the manpower or whatever additionally was needed.

In the particular case you asked about, who did we send from New York, the answer is that I directed Sam Blackman and Pat Morin to go.

Q. To Oxford?

A. Morin to Oxford and Blackman to New Orleans.

Mr. Watts: Now, if you will, turn to the deposition of Alfred Kuettner. We are about through.

Do you want to ask any questions from the deposition, Mr. Gooch?

Mr. Gooch: Not at this moment.

ALFRED KUETTNER, testified by deposition as follows:

By Mr. Watts:

Q. State your name, please, sir.

[fol. 1243] A. My name is Al Kuettner.

Mr. Watts: If Your Honor please, this deposition of Al Kuettner, we have stipulated, to save having to read a lot of preliminaries here, that Mr. Kuettner was a news reporter for the United Press International; that he was present on the Ole Mississippi campus that night and saw the things that he testified to and reported to his news service, the United Press International.

Mr. Gooch: The deposition was taken by Mr. Watts. It's Mr. Watts' witness.

Mr. Watts: Yes, the deposition was taken by—as you were. I wasn't there. I took one and then they re-took it.

Present at the taking of this deposition was Mr. John A. Dunnaway of New Orleans, or, as you were, Atlanta. And Mr. Carlisle Cravens, the gentleman sitting here, and Mr. Fred D. Smith, the gentleman that usually sits there. I don't know what happened to him.

Mr. Gooch: The deposition was taken on behalf of the Plaintiff, is what I am trying to arrive at.

Mr. Watts: That's right, taken on behalf of the Plaintiff, but not by me.

The Court: Do you stipulate to the facts which Mr. [fol. 1244] Watts said the two of you had agreed upon?

Mr. Gooch: Yes, that's all right.

Mr. Watts: Starting on page 16, at line 14, or 12. He will need to know where to start reading.

I will start over. My question is at line 12. Your answer is line 14.

Q. Now, what time did you get on the campus Sunday afternoon or evening?

A. Well, it was after dark.

Q. Did you see General Walker when he came on the campus?

A. Yes, sir.

Q. Where were you, Mr. Kuettner?

A. On University Avenue.

Q. Doing what?

A. Going to the telephone.

Mr. Watts: I would like to point on the chart at this point where this location is. On University Avenue is this Avenue right here (indicating).

Q. In other words, you were headed east?

A. Yes, sir.

Q. How far from the monument were you headed back towards where your telephone was?

A. Oh, I would say more than a couple hundred feet.
[fol. 1245] Q. Where did you see General Walker?

A. He was on the sidewalk on University Avenue.

Q. Which one, north or the south?

A. Well, as I recall, there was only one sidewalk on University Avenue right there.

Q. Which side of the street is it on?

A. He was on the left side of the street going toward the west, in a westerly direction.

Q. In other words, he would be on the south side of University Avenue, assuming it runs east and west?

A. Yes.

Q. Is that the same side of the building you were using?

A. Yes, sir.

Q. And you were headed back toward your building and he was meeting you, you were meeting each other?

A. Yes, sir.

Q. Do you recall what time it was?

A. No, I don't recall.

Q. Approximately.

A. Oh, I would say it was probably after 9:00.

Mr. Watts: Over now to page 18.

Q. Did you speak to General Walker?

A. I said, "Good evening."

Q. And was the street lighted?

[fol. 1246] A. It was lighted enough to see him.

Q. Sir?

A. It was lighted enough to see him.

Q. You had enough light to identify and recognize one another?

A. Yes.

Q. Anybody you knew?

A. Yes.

Q. Now, you didn't stop and have any conversation with him?

A. No, sir.

Mr. Watts: Then skip over to the top of page 19.

Q. But you didn't talk to him?

A. No, sir.

Q. And you didn't talk to him as he came on the campus that night about 9:00 o'clock or a little after?

A. No, sir.

Q. Where was the building located where the 'phone was you were using?

A. It was the Journalism Building.

Q. How far was that from the monument?

A. Oh, I would say about, maybe 500 feet or so.

Mr. Watts: (Indicating on map.)

Q. Where were you going at the time you met General [fol. 1247] Walker?

A. To the Journalism Building.

Q. To report what?

A. The increasing activity on the campus.

Q. And did you go ahead then and make your report?

A. Yes, sir.

Q. Did you report General Walker was on the campus?

A. Yes, sir.

Q. Did you immediately get a 'phone call through?

A. To the best of my knowledge.

Q. And when you finished it, you did what?

A. Went back to the campus.

Q. And when you got back to the campus, did you see General Walker?

A. I saw General Walker again, yes.

Q. Where was he?

A. Standing on the monument.

Q. On which side?

A. On the east side.

Q. Facing the direction you were coming from?

A. Yes, sir.

Q. And how close to General Walker did you get?

A. Oh, within, I guess, one hundred feet or so, one hundred, one hundred fifty feet.

[fol. 1248] Q. You never got any closer to him than that?

A. To the best of my knowledge, that was about it.

Q. Did you hear him say anything?

A. Yes.

Q. What did he say?

A. Well, again, not directly quoting him at this point, but he said something to the effect that, "You have every right to demonstrate, but this is not the way to Cuba." That, in general, is what I heard him say.

Q. Did you hear the crowd jeer him?

A. Yes, at one or two points.

Q. You reported, I believe, that the crowd gave him a massive jeer?

A. Yes.

Q. Now, describe what that information was the result of? Well, state whether there was jeering?

A. I heard some jeering.

Q. And can you state the occasion of it?

A. By something that he said, and I don't recall specifically at this point in response to what particular remark it was that the jeering came.

Q. Look at this copy of Plaintiff's Exhibit 3-G that was identified at the taking of the deposition on January 17th of this year.

Mr. Watts: Do we have that available? Do you have it, [fol. 1249] Carlisle?

Mr. Godch: I don't have it.

Mr. Watts: I guess it's not here.

Q. Look at this message, UPI A144 N AJ and see if that refreshes your memory?

A. Yes, I will abide by this because this was given to our people here as a chronology of the events that were happening.

Q. Now, state for the record, the basis of the report that you made that he was jeered.

A. When he made some reference to a desire that peace be restored, he was jeered.

Q. Will you state for the record whether or not as you reported in this statement that this is true, that during a lull in the rioting General Edwin A. Walker mounted a Confederate statue on the campus and begged the students to cease their violence?

A. Yes.

Q. That is true?

A. That is true.

Q. And was the massive jeer that is reported something that took place chronologically after that occurrence?

A. As I recall, it was.

Q. How much, and I don't mean percentage-wise, did [fol. 1250] you hear General Walker say while he was in that position of speaking to his audience?

A. Only what is reported in the dispatch that you have just shown me.

Q. Now, there were other dispatches, were any merely repetitious?

A. In general, we may have expanded some on what I said.

Mr. Watts: I believe that's all.

CROSS EXAMINATION

Mr. Gooch: I didn't have a chance to check this. I have to be a little slow in reading.

Page 23.

Q. Let me ask you the question, what did you report that you heard him say?

A. At one point I reported him saying, "I want to compliment you all on the protest you make here tonight. You have a right to protest under the Constitution."

Q. Now, is that what you heard him say?

A. That is correct.

Q. Did you ever see General Walker, or did you see him on the monument with anyone else?

A. I don't recall whether anyone else was on the monument or not. There was quite a crowd of people around the monument. I don't know exactly the physical characteristics of this monument, but I think it has got a base [fol. 1251] and then a recess up above that and then the shaft goes on up, and there could have been somebody on there with him.

Q. You recall no occurrence that involved anyone else being on the monument with him?

A. I would not be able to say positively that there was or wasn't.

Q. And now did you continue on into the campus or did you go back to your telephone after you heard that portion of his remarks?

A. As I recall, I went back to the 'phone.

Q. And you reported them while they were fresh in your memory?

A. Yes, sir.

Q. And this is a report that you have just read?

A. Yes, sir, you see, if I could just—could I explain something there?

Q. Yes, sir.

A. At the height of something like this, you don't have time to stop and write down things in notebooks. You

have to commit them to memory and get back to your telephone and report that and to a large extent forget it because you just simply don't have time to commit a lot of things to writing at that point.

Q. Now, when you got through with that telephone call, [fol. 1252] did you then go immediately back to the Circle or Oval?

A. Yes, sir.

Q. Did you see General Walker?

A. I say immediately, I don't know. I don't recall whether that 'phone call took five minutes, fifteen minutes, twenty minutes, whether we had difficulty getting the call through, whether there were other things that I had to do before I got back, I just don't recall.

Q. My question was, when you did conclude it, did you go immediately back to the Oval?

A. Yes, sir.

Q. And did you see General Walker any more?

A. No, sir.

Q. Did you ever see him that night at all?

A. I saw him when I left the campus.

Q. And that was about what time?

A. Well, it was late. Most of the real trouble had stopped by then.

Mr. Gooch: Line 20.

Q. When did the soldiers come in?

A. Well, it was, as I recall, pretty close to midnight, sir.

Q. When did the Marshals come?

A. They came in that afternoon.

[fol. 1253] Mr. Gooch: 13 on page 26.

Q. And now between the time you saw General Walker on the monument and the time you saw him leave, first, let me ask you where was he when you saw him leaving?

A. On University Avenue.

Q. He had already passed out beyond the Circle and east of the monument?

A. Yes, sir.

Q. Had he reached the building where your telephoning was being done?

A. No, sir, it was between the monument and the Journalism Building.

Q. Was he on the sidewalk or in the street?

A. On the sidewalk.

Q. When he came in, who was with him, if anyone?

A. When he came onto the campus?

Q. Yes.

A. There were two men with him.

Q. Was there anybody in uniform?

A. No, sir.

Q. Did you see anybody with a badge that was with him?

A. No, sir.

Q. You did not see a badge, is that what you mean?

[fol. 1254] A. That is correct.

Q. Now, when he left, were those same two men with him?

A. There were two people with him when he left.

Q. Did they appear to be the same individuals?

A. Recalling this far back, I would say yes, but I am not positive.

Q. Now, between the time you saw him on the monument telling the students as you have indicated in this report and you reported that to your company and the time you saw him leaving, what did you do; where were you? Were you in and out of the crowd on the Oval?

A. Yes, sir. I say in and out of the crowd, this is true to this extent, that I mingled with this crowd around the perimeter, around the south perimeter of the Oval. Now, I didn't go straight up through the Grove to the Lyceum.

Q. What is in the middle of the Grove Street up?

A. Trees, flagpole.

Q. With reference to the center of the Oval, where is the flagpole located?

A. It is about in the middle.

Q. Is there a paved walkway from the monument by the flagpole to the Lyceum?

A. I believe so.

[fol. 1255] Q. Are there any cross pavements?

A. I think so.

Mr. Gooch: At line 24.

Q. And you could see what went on within the Oval and in front of the Lyceum Building as it faced east?

A. Mr. Dunaway, I could see what I could see. I don't mean to be ambiguous.

Q. I understand.

A. But this is a pretty big area. There was a tremendous crowd of people and I could see a good deal of what was going on. I could not see everything that was going on.

Mr. Watts: Would you read the next question, to save me coming back?

Q. You did not see General Walker lead a charge?

A. I did not.

Mr. Watts: Correction, Mr. Gooch, "You did not see Mr. Walker lead 'any' charge?"

Mr. Gooch: That's what I said.

Mr. Watts: No, you said, "A". Makes a lot of difference.

Mr. Gooch: Excuse me, "You did not see General Walker lead any charge?"

Answer: "I did not."

Q. Did you see or hear anything that would indicate [fol. 1256] to you that he was leading a charge?

A. I did not personally, no, sir.

Q. Now, as you walked and worked the south side of that Oval, was there a building under construction south of the monument on the south side there at the end of the Oval, a new building?

A. Yes, sir.

Q. And just west of that building there is a building there with some either fir trees or evergreens of some sort, two or three trees? You did not, as you worked the south side of the monument, at any time see General Walker standing over there in the neighborhood of those trees for a long period of time?

A. No, sir.

Q. You missed that?

A. I missed it.

Mr. Gooch: On page 30, line 10.

Q. What was the first contact that you observed between the students and the Marshals?

A. Jeers, some rock throwing, throwing of pebbles, that type of activity.

Q. Were you present when the first tear gas was thrown?

A. Yes, sir.

Q. Where were you at that time?

[fol. 1257] A. In the vicinity of the Lyceum.

Q. Well, on the south side of the perimeter?

A. Yes, sir.

Q. How far from the entrance of the Lyceum?

A. About one hundred feet.

Q. Were you in the crowd or in the street?

A. The crowd was in the street. It was all over the place. I don't remember whether I was standing on the street or not.

Q. How soon after the tear gas was thrown did you make a report by telephone to Atlanta?

A. Just as quick as I could get to a telephone.

Q. Did you run or walk?

A. Ran.

Q. Then, when you reported that, what did you do?

A. Went back.

Q. How near the other position were you at this time when you went back?

A. I don't recall at this point. There was a good deal of tear gas. They laid down a blanket of tear gas to dis-

perse the crowd that was near the Marshals and I don't recall now how close I was able to get, but in the vicinity, well up in the Grove.

[fol. 1258] Q. Were you able to identify anybody that was leading any charge?

A. No, sir.

Q. Or was there a charge? Was there any organized charge?

A. No, sir, not at that point.

Q. Did you ever see an organized charge?

A. Yes, sir, but I don't recall. I couldn't tell you who was leading. I say an organized charge, do you mean this, that you could see a column of people rushing in one direction together? This happened numerous times.

Q. Did you see any weapons on any of the persons that were engaged in the charge, firearms, is what I mean by weapons?

A. No, sir.

Q. What were they using?

A. Molotov cocktails—now I did not know—I am referring to those weapons as weapons that I saw in the hands of people going into the campus, into the crowd.

Q. Were they students?

A. I couldn't tell, sir, whether they were students or not. They were young people. Some of them had student-type, you know, sweaters and so forth. I saw numerous weapons in the hands of the people, stakes, Molotov cocktails, large rocks, broken brick, broken concrete, broken bottles, that [fol. 1259] type of thing.

Q. But you saw no firearms?

A. Not at that time, not that night. I did not see any firearms.

Q. Were the Marshals armed with firearms?

A. The Marshals were armed with firearms.

Q. Yes, sir.

A. Yes, sir, as far as I know they were.

Q. And did you see any pistols in holders on the Marshals?

A. Yes, sir.

Q. Did they have any other type of gun?

A. Tear gas.

Q. Just pistols and tear gas guns?

A. So far as I know those are the only ones that I saw.

• • •

Mr. Gooch: Down to Line 15, on Page 33.

Q. In any of these surges that you talked about did you ever see a flag?

A. Yes, sir.

Q. What sort of a flag?

A. A Confederate flag.

Q. Was it in the crowd or was it leading?

A. I saw several times a Confederate flag toward the [fol. 1260] front of some of these surges.

Q. Could you see who was carrying the flag?

A. No, sir.

• • •

Mr. Gooch: On Page 34, Line 10.

Q. Did you ever see any of these groups in there, surging people, having physical contact with the Marshals? Did they ever cross the street?

A. I didn't see this, no.

Q. Did you have any reports that that had occurred?

A. Yes.

Q. What time of day? Early in the evening or late, or when?

A. Well, it was after the riot had started.

Q. Well, that started while Kennedy was talking, didn't it?

A. Well, Kennedy was talking what? About 8:00 o'clock? It was a good deal later than that.

Q. Was this before General Walker appeared on the campus?

A. I just don't recall whether it was before or after.

• • •

Mr. Gooch: On Page 35, Line 11.

Q. And where was the motion at that time? From out of the oval, or the edge of the street next to the Lyceum?
[fol. 1261] A. Could I just explain this thing?

Q. Yes.

A. The Marshals were standing in an arc around the front of the Lyceum, on the Lyceum side of the street. The demonstrators were standing both in the grove, along the street and some in the street, and this thing was quite spontaneous. There was jeering, there was taunts.

The Marshals were standing their ground, not doing anything, and there was this increase in taunts, then rocks, and later on, I don't recall at what point, this car was wrecked and that is the way the thing started.

But there was an increasing activity and motion.

Q. When the tear gas was fired the State Patrol was there, wasn't it?

A. Yes, sir.

Q. And after the tear gas was when the Patrol left?

A. Yes, sir.

. . .

Mr. Gooch: That concludes at Line 4, Page 36.

Cross examination.

By Mr. Cravens: (Line 22, Page 36)

Q. Mr. Kuettner, when were you first acquainted with General Walker as a public figure? I mean more than personally, but when you had knowledge that there was such a man?

[fol. 1262] A. When he was still in the service.

Q. Was that at Little Rock, or prior to Little Rock?

A. At Little Rock.

Q. Were you at Little Rock covering that story for UPI?

A. Yes, sir.

Q. Did you observe his activities at Little Rock?

A. No, sir. My assignment at Little Rock was writing the story and I did not—I was not ever at Central High School during that time.

Q. But you did know that there was a person called and known as General Walker?

A. Yes, sir.

Q. And at that time he was a public figure and news worthy throughout the State and elsewhere?

A. Yes, sir.

Q. Now you also, or I will ask you whether or not if that image, that public image has continued to this time, to a newsman?

A. Yes, sir.

Mr. Gooch: Skipping down now—that ends at Line 19.

Q. Now I believe you mentioned the fact that you were [fol. 1263] in Oxford some few days before September 30th. Did you happen to be in Jackson, Mississippi when Meredith attempted to register in the office of the Trustees in Jackson?

A. No, sir.

Q. You were not present at that?

A. No, sir.

Q. You actually saw, as I understand your testimony, what you called a confrontation of the Lt. Governor of Meredith on the campus of Ole Miss?

A. Yes, sir.

Q. Tell us in your own words just what you saw and the approximate time and date, as you recall, concerning that confrontation.

A. Well, it was several days prior to September 30th, after Meredith had been ordered registered in the University. And the incident that I witnessed was on the date, and I don't remember what date it was, when they had the consultation at the—what corresponds to the center for continuing education there at Ole Miss.

Q. You mentioned "they". Who do you refer to when you say "they"?

A. Did I testify about this before?

Q. You did not.

A. I would have to refresh my memory from the file on this. As I recall now it was the Lt. Governor and the school [fol. 1264] officials.

Q. Were you present when that meeting took place?

A. Yes.

Q. Did you hear what was said?

A. No, sir, it took place inside the building.

Q. Did you see Meredith actually, on campus to attempt to register on that occasion?

A. I don't recall exactly the circumstances. As I recall now he was brought in in a car, and taken in at that time.

Q. Now the Lt. Governor you referred to was Paul D. Johnson, now Governor of Mississippi?

A. Correct.

. . .

Mr. Gooch: Line 16.

Q. What I am really asking you about is the actual confrontation when the Lt. Governor, Paul B. Johnson, actually impeded and obstructed, physically the entrance of Meredith to the University. Did you see that?

A. I don't believe that I was the one who covered that. I think Leon Daniel was the man that covered that. This is the best of my recollection now.

Q. At what time did you also know that it was common knowledge from the newspapers, the UPI dispatches and other sources of news, that Federal Courts, both the Dis- [fol. 1265] trict Court in Mississippi and the Fifth Circuit Court in New Orleans, had existing then, injunctions and court orders requiring the registration of Meredith at the University of Mississippi?

A. Yes, sir.

Q. And that was the occasion of the one confrontation that you referred to, in either the Continuing Education

Building or the entrance to the campus when he was physically refused admittance?

A. Correct. There was a lot of back and forth there. As I recall they tried to get him on two or three times.

Q. And he was physically obstructed, as far as his entry to register was concerned?

A. Yes, sir.

Q. And I believe you stated that you knew of the existence of the Court Orders and Injunctions requiring that he be registered at the University of Mississippi?

A. Yes, sir.

Q. And therefore the activities of the school and state officials, as you understand it, were in defiance of the court order, is that correct or not?

A. That is correct.

Q. And that was the situation that was in existence there at Oxford on that Sunday, or Saturday night, September 29-September 30, or September 30th when you arrived at Oxford?

[fol. 1266] A. Yes, sir.

Q. Now you referred in your direct testimony that things were building up very fast when you were talking about what was happening there some time in the morning and in the afternoon of Sunday.

What did you mean when you said, "Things were building up very fast," as to what those things were?

A. There was a great deal of talk in the town about that they are not going to let him come on the campus. There was the interview with the Sheriff. I based my supposition about the building of tension a great deal on what Sheriff Ford told me, and there were a number of—well, there were a lot of people in town. Well, it was just a thing you can pretty much feel; tension building up.

Q. In other words you base it on what Sheriff Ford told you and just through observing the ordinary townspeople?

A. Correct.

Q. And the other people that were crowding into the town?

A. Correct. There were out-of-state cars, there were out-of-county cars, that type of thing.

Mr. Watts: Excuse me, I am going to just object to this next, just to shorten it. It is obviously hearsay.

[fol. 1267] Mr. Gooch: Cross examination.

Mr. Watts: In other words, this is not part of the res gestae. This is several days before.

The Court: What line are you on?

Mr. Watts: Line 23, Page 41.

The Court: I will permit it, if it was out there.

Q. There was talk of obstruction of the Court Orders at that time?

A. Correct.

Q. To prevent Meredith by any means from registering at the University of Mississippi, is that an accurate statement?

A. I would say, yes.

Q. And that is what you are referring to, was that feeling, or that sense of tension and animosity and element of revolt being built up against the Federal Court Order that was then in existence, is that correct?

A. Correct, and I also based it on what had happened previously; that there had been this confrontation, there had been tension, there had been physical evidence that they were not going to let this fellow on the campus, and this is the reason we put our telephone where we did.

Mr. Gooch: Down to the question on Page 18—I mean [fol. 1268] Line 19, Page 42.

Q. What I would like to ask you was, what, in substance, was it that Sheriff Ford told you there in the interview on that Sunday morning?

Mr. Watts: Your Honor, I object to this. It is hours and hours, a day before this event took place.

Mr. Gooch: Sunday morning.

The Court: What is the line and page?

Mr. Watts: Line 18, through 20. In other words, this is what the Sheriff told this reporter the morning of the riot. At least 10 or 12 hours before the thing happened.

The Court: Sustained.

Mr. Gooch: May I be heard?

The Court: Do you want to make a Bill on it?

Mr. Gooch: I want to say this, General Walker testified what the Sheriff's conversation was.

Mr. Watts: Oh, no, I don't believe he has. The Court sustained your objection.

Mr. Gooch: He did testify on cross examination what the Sheriff told him?

The Court: I am not going to permit that.

Mr. Address: Cross examination? That was invited, Judge.

[fol. 1269] Mr. Gooch: Shall I go on down?

Mr. Watts: This is all the—what the Sheriff told him. It would save a lot of time if you would skip over to Page 45. It is all hearsay down through Line 19, or Page 45, it looks to me like.

The Court: I am going to permit him to read Line 25, Page 43, through Line 13, Page 44; or Line 14.

Mr. Watts: Is that on 44 or 43?

Mr. Gooch: Well—

The Court: Bottom of Page 43.

Mr. Watts: Oh, I see. Yes, sir. At line—

The Court: Line 25.

Mr. Watts: 25. Yes, sir, I think that is all right.

The Court: Through Line 14 on 44.

Mr. Watts: Yes, sir, I think that is right, because that is his own observation.

Mr. Gooch: Line 14?

The Court: Yes, sir.

Mr. Gooch: I see. Beginning with Line 14, Page 43.

Q. Had you yourself seen or heard of some of these news dispatches or statements that General Walker had made while over in Texas about coming to Mississippi ten thousand strong and bring your flags—

A. I heard these reports. They were being relayed to me second-handed from our people here.

Q. And that was in your mind when you realized that this tension was building up, as well as these other things that you saw there on the campus and in town at that time?

A. Yes, sir.

Q. Included in his statements, I believe, was this, "To come and bring your flag, your tent, your skillet and stand shoulder to shoulder with Governor Barnett." Did you know he made that statement?

A. I remember something to that effect.

. . .

Mr. Gooch: Now it goes ahead and talks about Ford. I guess we will leave that out?

The Court: Yes, sir.

Mr. Gooch: Now Line 20, Page 44.

Q. I believe you have described the initial or the first part of the action of the group just before the tear gas was fired. I believe you said there was a tremendous crowd of people there in front of the Lyceum and in the circle or the oval as we call it?

A. Yes.

Q. And that crowd of people, did it increase or decrease during the course of the night?

[fol. 1271] A. I am sure some people left, but it was a good crowd of people there. I have a suspicion that it was somewhat decreased from what it was earlier in the evening. Because when the violence really got started, the tenderhearted I am sure left.

Q. Now, what actually started out there to be a demonstration of what you say was a throwing of rocks, and I believe you said some lighted cigarettes—

A. There was some lighted cigarettes thrown because a canvas top on one of the vehicles was set fire to.

Q. That was just before the Marshals fired the tear gas, is that correct?

A. Yes.

. . .

Mr. Gooch: I am trying to read this so I won't get in trouble with you.

Mr. Watts: I think that part is all right. I am kind of reading ahead of you. I will scream when—

Mr. Gooch: Okay.

Q. Did you see actually the immediate movement, action, on the part of the crowd that brought on the firing of the tear gas; was it the throwing of any particular missile?

A. I would say it was, to me it was sort of the brink of the explosion from a demonstration into something uncontrollable. In other words, there was the sound of the [fol. 1272] crowd—the sound of the crowd changed from a jeer to a, well, I would call it a snarl. There were more rocks thrown and there was a sort of a surge forward.

Q. Towards the Marshals?

A. In the direction of the Marshals.

Q. And did it appear that the state police were going to be able to control the situation or did they try?

A. I did not see them try.

Q. And at that point, when that surge occurred and the tenor of the noise turned from maybe jeers and other things, to a snarl, was when the tear gas was fired?

A. Correct.

Q. And that had the effect, I will ask you, did that have the effect of moving the crowd back from the Marshals?

A. Temporarily.

Q. Now, when you first saw General Walker, I believe you said it was about nine o'clock, was he walking toward the Lyceum when you saw him?

A. Yes, sir.

Q. And I believe you said two men were with him?

A. Yes, sir.

Q. How were they walking, single file?

A. One on each side of him.

Q. Walking three abreast?

A. Yes.

[fol. 1273] Q. Was there any other group there with him, with General Walker at that time?

A. Not just with him, there were people, you know, walking along.

Q. Behind him?

A. Some behind, some in front.

Q. All moving toward the Lyceum?

A. Yes.

Q. Did these two men, were they holding his arms or anything of that kind when you saw them?

A. As I recall, they were.

Q. They were?

A. Yes.

Q. Then, I believe in your prior testimony you said that you were running in the opposite direction from which he was going?

A. Correct.

Q. In order to make a telephone call?

A. Yes, sir.

Q. After you lost your telephone connection there on the post, then you had to make these runs at periodic intervals to make your reports, is that correct?

A. No, sir, after we established some kind of a headquarters in the Journalism Building, I quit using the telephone pole position because the Journalism Building was [fol. 1274] considerably closer to the scene of action. I did use the telephone pole phone earlier in the evening and then I went back to it later that night and it was at that point that I discovered that the wires had been pulled out.

Q. Was there some antagonism toward the photographers and the press on the campus that night of September 30?

A. Yes, sir.

Q. Was there considerable?

A. Yes, sir.

Q. To what extent did that sometimes show itself?

A. Well, one of the things that happened near the Lyceum was that a television cameraman's car was wrecked.

Q. Did you see that?

A. See the actual wrecking of the car?

Q. Yes.

A. No, sir.

Q. Did you see any antagonism—

A. I was on the opposite side of the crowd from, in other words, the crowd obscured my vision then.

Q. Did I understand your testimony that there was evident antagonism of the, by the crowd towards newspaper photographers and news reporters that night?

A. Yes, sir.

Q. You felt that and knew that as far as you were concerned?

[fol. 1275] A. Yes, sir.

Q. You felt that and knew that as far as you were concerned?

A. Well, I will tell you, the first thing we did was to take off our coats, take off our ties, and pull our shirttails out and try to be as near like one of the demonstrators as we could.

Q. Make yourself as less conspicuous as you could?

A. As inconspicuous as we could.

Q. Now, at the time you saw General Walker coming on the campus at about nine o'clock, had there already been violence that had erupted?

A. Yes, sir, and I don't recall at what stage it was at that time.

Q. Now, I believe in your prior testimony you said that the temper of the crowd, the action of the crowd, its anger and its resentment increased during the night just before it finally subsided, is that correct?

A. Yes, sir.

Q. That was before and after General Walker's speech, the part of it you heard at the monument?

A. Correct.

Q. Were these people that had these weapons that you call it, the wooden staves, the broken bottles, parts of bricks and other missiles, were they making any evident effort to [fol. 1276] hide them or were they just holding them in their own hands?

A. They had them in their open hands.

Q. Anyone on that campus could see that they were armed with dangerous weapons, that is by throwing within fifty or seventy feet of the Marshals?

A. Yes, sir.

Q. You mentioned that you saw no weapons, and by that I understand you to say guns. You mention you saw no guns in the hands of the demonstrators?

A. I did not see any.

Q. At any time during the night, did you hear any guns fired?

A. Yes, sir.

Q. From what direction was it apparently coming?

A. From the east side of the grove.

Q. Away from, in other words, it was not coming from the Marshals, it was coming from someplace other than where the Marshals were, is that correct?

A. Yes, sir.

Q. Could you tell whether that was a .22 fire or shotgun fire or what?

A. It was rifle fire.

[fol. 1277] Q. Sounded like rifle fire?

A. Yes, sir.

Q. And about what time of the night did that occur, if you recall?

A. Oh, as I recall, it was around about eleven o'clock.

Q. Now, the next time after you saw General Walker coming on the campus, I believe you said that he was making a speech at the monument?

A. Yes, sir.

Q. Do you know how many speeches General Walker may have made at the monument that night?

A. No, sir.

Q. I believe you said when you got there he was already speaking?

A. Yes, sir.

Q. And as soon as you saw that it was General Walker, you immediately left to report that he was there?

A. As soon as I got the gist of his conversation that I have in my report.

Q. Now, in your prior testimony I think you said you listened to him from two to three minutes?

A. I would say about that long.

Q. Did you see the Reverend Duncan Gray attempt to talk to General Walker at the monument?

[fol. 1278] A. I have tried to refresh my memory about that and I just can't say that my memory is clear that I actually saw Gray.

Q. Did you hear General Walker say that he, Duncan Gray, made him ashamed to be an Episcopalian?

A. If that is in our news report, I would say yes. I will just have to rely on that from this distance in time.

Q. At any rate, that night on September 30, 1962, from the time you got there until the time you left—incidentally, when did you leave the campus?

A. The next morning.

Q. You stayed over there all night?

A. Yes, sir.

Q. That thing developed from what at first was a demonstration to a full scale riot?

A. Yes, sir.

Q. And that is your language?

A. Yes, sir.

Q. And that is your best way to explain it?

A. Yes, sir, it was a riot.

Q. And it was a dangerous situation?

A. Yes, sir.

Q. For anyone to have been in that circle or in that immediate area, with the rifle fire and the temper of the crowd [fol. 1279] such as it was?

A. Very much so.

Q. I believe in one of your statements you said disorder broke out all over the place?

A. Yes, sir.

Q. And after the riot broke out, it went fast?

A. Yes, sir.

Q. Now, describe as best you can again these, the charges that you said were, had the appearance of a generalized movement toward the marshals. Was it a large group with small factions breaking off and going up further or was it moving in solid front or how did it operate?

A. Well, I would say that the clearest way I could explain it would be that somebody, and I don't know who, would get up a fairly small segment of the whole crowd and charge toward the area from whence the tear gas was coming and at one point, from whence the fire hose water was coming at another point, and there were these groups, one of them would go this way and another one would go from another direction.

Q. All at approximately the same time?

A. Right. No, this went on for a period of time. Then the marshals would fire more gas and the whole crowd would come swarming down and then presently another group would go up.

[fol. 1280] Q. You said swarming down, you mean making a movement toward the marshals, is that what you mean?

A. No, I mean when the marshals would fire their gas, it would disperse the whole crowd temporarily.

Q. They would fall back?

A. Fall back. And then a group would—the only thing I could recall, it would be reorganized, and then somebody would get up courage enough to start back and some would follow them back.

Q. And they would all come in behind and move up toward the marshals?

A. That's right.

Q. Did you see them actually throwing missiles toward the marshals when they got close enough?

A. No, not at that point, no.

Q. Did you at any point see them throw missiles?

A. That was earlier. When you say missiles, you mean rocks and so forth?

Q. That's right.

A. There was a lot of it that went on. Of course, it got a lot worse than rocks before it was over.

Q. Was it noisy on the campus there after this riot was gotten underway?

A. Yes, sir.

Q. Was it difficult for you to hear General Walker completely at the monument when he was making his speech?

A. No, I was close enough to hear the part of it that he said while I was in his vicinity.

Q. Now, I believe in some of your prior testimony, you said that there would be a group of people headed in a certain direction and in front of the group would be a flag, a Confederate flag?

A. Yes, sir.

Q. And was that your description of some of these charges that you have referred to?

A. Yes, sir, there were flags in the forefront of some of these charges?

Q. And to you the word "charge", as I understand it, means a group of people headed in a certain direction?

A. Well, it was a group of people headed with determination toward; in the direction of the marshals.

Q. Toward an objective which was the marshals, is that your statement?

A. That's right.

Q. And that is a fair statement of what it was going on there that night, is that right?

A. Yes, sir.

Q. And I believe you said you never saw General Walker actually be in the forefront or included in any of these charges toward the marshals?

[fol. 1282] A. I did not.

Q. Did you see him at any time move with any group of people toward the Marshals?

A. I did not.

Q. Of course, I will you ask you whether or not it could have occurred and you have missed it?

A. Absolutely.

Q. I believe on your direct testimony you said you didn't know how long it was from the time you left while General Walker was speaking at the monument until you returned to the monument?

A. That's right.

Q. And it covered, you said, as much as twenty-five minutes?

A. Yes, sir.

Q. And, of course—

A. I doubt if it was that long, but it covered more than five or ten minutes.

Q. It covered more than twenty-five?

A. Yes, sir. I know at some points during the night we had difficulty getting phone connections. At some points I had to confer with the people on the desk here, that type thing.

Q. In other words, General Walker could have moved up in a generalized movement toward the marshals on one [fol. 1283] of several occasions while you were at the phone making your calls and you not seen him, is that correct or not?

A. Yes, sir.

Q. Now, that could have occurred when you passed him when you first saw him, if he had moved on up toward the marshals at that time, that could have occurred and you not seen it as I understand it?

A. Yes, sir, because as I said earlier, I was on the way to the phone.

Q. Then it could have occurred, as I understand your testimony, immediately after he completed his speech and while you were making your report, is that correct?

A. You mean by "it," his moving—

Q. His generalized moving with the group toward the marshals.

A. Yes, sir.

Mr. Gooch: Top of page 57, for continuity.

Q. Now, I believe you mentioned the fire truck. Tell us about the fire truck and the hose incident, if you will, and about what time it occurred.

A. Well, it was, I would guess that this too was around, oh, certainly after ten or 10:30 and I have a notion it was between—about eleven o'clock probably. But this fire truck was captured by the mob at some point and then they have just drove the fire truck up and down the street there [fol. 1284] in front of the Lyceum.

Q. You actually saw that then?

A. Yes, sir.

Q. Did they have the hose connected up and were spraying water at that time?

A. Yes, sir.

Q. That was the demonstrators or the members of the mob?

A. Yes, sir.

Q. Where were they spraying the water, in what direction?

A. In the direction of the marshals. Actually, I think their main objective was to try to disperse this gas with the water, so they could get back in the vicinity of the marshals.

Q. How long was that after General Walker's speech?

A. It was sometime after Walker's speech, certainly more than thirty or forty minutes after his speech.

Q. Now, what became of the fire truck, was it seized back by the marshals or did you see it disappear or what?

A. I think that fire truck changed hands three or four times that night.

Q. Now, you mentioned something about the bulldozer incident, what happened on that, tell us about that.

[fol. 1285] A. The crowd commandeered a bulldozer. It was a front-end loader type of equipment, and they tried to use this as an assault weapon and it finally stalled at the curb there and they couldn't get it to going again.

Q. Now how do you mean they tried to use it as an assault weapon, tell us what you mean?

A. I don't want to go into too much detail on that particular thing because I didn't see too much of it, except that I did see the bulldozer moving in the direction of the marshals.

Q. I just want you to tell what you actually saw. That is all you saw was the bulldozer moving in the direction of the marshals?

A. Yes, sir.

Q. Where was it, on Circle Drive or in the Grove?

A. On the drive.

Q. And you didn't see the termination of that incident?

A. No, sir, I saw where the bulldozer stalled.

Q. You mentioned also, I believe, tying down an accelerator on an automobile, did you see that incident?

A. I saw the car headed in the direction of the marshals.

Q. Did it have anyone in it?

A. No, sir.

[fol. 1286] Q. Any driver?

A. No, sir.

Q. Apparently then, it was then driverless and just had been turned loose toward the marshals, is that correct?

A. Yes, sir.

Q. What happened to it, do you know?

A. I believe it hit a tree.

Q. Before it got to the marshals?

A. Yes, sir.

Q. Now, in your prior testimony, starting at Line 2 on Page 33—

A. All right.

Q. Now, you tell there about Walker's statement in the speech. "I want to compliment you all on the protest you make here tonight." He did make that statement as you have testified about before?

A. Yes, sir.

Q. Now, at that time did the students jeer when that statement was made by General Walker?

A. Yes, sir.

Q. In other words, they jeered when General Walker mentioned that long route to Cuba—

A. That's right. The point where I recall the jeers coming was when he made some reference to settling the thing peacefully.

[fol. 1287] Q. Then the cheers came when he told them he wanted to compliment them on the protest they were making here tonight, is that correct?

A. Yes, sir.

Q. Did you hear any shouts at that time that the students made incident to that statement, "I want to compliment you."

A. What do you mean by shouts?

Q. Well, you have got, before I think you said the students shouted, "Let's go, Rebels." Do you recall that?

A. Yes, sir. There were shouts and cheers intermingled.

Q. Did you hear the statements made by the crowd there, "Let's go, Rebels"?

A. Yes, sir.

Q. And the crowd surged forward?

A. Yes, sir.

Q. You heard that statement then and you remember it now?

A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. Now, did you hear anything about who had let the crowd down as far as letting the marshals on the campus?

A. The Federal Government.

[fol. 1288] Q. Did he say anything about Colonel Birdsong?

A. I believe, yes, Walker said that Colonel Birdsong had sold out the students.

Q. You heard that statement at the monument?

A. He said Birdsong had violated Burnett's orders in letting the Marshals on the campus.

Q. You heard that statement?

A. Yes, sir.

Q. Did that have the effect of infuriating the crowd when he made those statements, General Walker?

A. As I recall, it did.

Q. Now, when General Walker, when you first saw him coming on the campus with the two men abreast holding his arms, as best you recall, he was walking at what type of a gait?

A. Fast.

Q. Fast gait?

A. Yes.

Q. Was his eyes fixed ahead or was he looking right ahead or what was his appearance?

A. Fixed ahead. I would say he was—being I had my own observation—

Q. Yes, that's what I want.

A. I would say he was walking on toward the campus like a man with a mission.

[fol. 1289] Q. Did he appear to be in an emotional state at that time?

A. Yes, sir.

Q. What type of emotion would you say, tense or wrought up?

A. Tense, I would say he was in a state of considerable emotional upheaval.

Q. Did he appear to have the same upheaval when he was leaving the campus, if you noticed?

A. Not the same type.

Q. About the same type?

A. I said not the same type.

Q. What difference did you observe?

A. I don't want to get put into the position of rendering expert opinion about what I feel a man looks like, but he was bone-weary, he was still in a state of great tension, great terrific tension, I would say, than when he came on the campus. But, well, let's just say he was bone-weary.

Q. Then I believe that you have at one time said that General Walker was more than an interested observer when he came on the Ole Miss Campus on the night of September 30, 1962, is that right or not?

A. Yes, sir.

Q. You still subscribe to that?

[fol. 1290] A. I still subscribe to that.

Mr. Gooch: Question, line 11. The last one is line 3.

"Question: Could you estimate the greatest number you saw in any single group?

"Answer: I just wouldn't. I tell you what this thing reminds me of more than anything, was a bunch of stampeding cattle in that the rider goes over here and runs them around this way and pretty soon they are going off in another direction and another rider pulls them back. So it was ebb-and-flow type of thing. At times there were maybe fifty in a group and at other times there would be three hundred in a group, so, you know, it moved that way."

Q. Now, is that your best description of the way that crowd looked in the circle that night?

A. Yes, sir, it was an ebb-and-flow type of surging thing.

Q. And as I understand it, cursing and making loud noises?

A. Yes, sir.

Q. Taunting?

A. Yes, sir.

Q. Rebel yells?

A. Yes, sir.

Q. Was it in the neighborhood of a roar, would you [fol. 1291] call it a roar of voices?

A. At times. The roar came like this. The marshals would fire their gas, the crowd would fall back, then the

crowd would begin to surge back toward the marshals and at that point there would be a tremendous roar, pretty much like a football crowd roar, as they moved back.

Q. And at the time of those surges and with the crowd roaring like it did, was that best described as a charge toward the marshals or not?

A. I would say yes.

Mr. Gooch: I don't believe the rest of it is admissible. On page 66, at line 13.

Q. Now, I believe at one time you described General Walker's appearance on the campus because he became a focal point of student activity, is that right?

A. I would say he was the focal point of some student activity, yes.

Q. And by student activity, you mean the mob, whether it included students or outsiders that may have come in, is that right?

A. Correct.

Q. Was the crowd drawn to him or not?

A. Some people in the crowd were drawn to him. He was easily recognized.

[fol. 1292] Q. And he was talking in a forceful manner when you heard him?

A. Yes, sir.

Q. Was he talking like a leader at that time?

A. He was, yes, he was giving advice.

Mr. Watts: Go ahead and read the next two while you are at it, next two questions or next question and answer.

Q. Did you hear him give any advice about how to handle the tear gas with sand?

A. No, sir.

Mr. Gooch: Line 23 on page 67.

Q. Now, I believe you said you left during the time that General Walker was making his speech and before he completed it, is that correct?

A. That is to the best of my memory.

Q. Now, after you got back from the Journalism Building, where you made your report immediately after you left the presence of General Walker making his speech, did you sense anything about the nature or tempo of the riot as being changed or different?

A. It had increased.

Q. Now, describe how it had increased.

A. The noise was much louder. I don't recall if the fire hoses had come out at that point, but there was just a general increase in the ferocity of the demonstration.

Q. Was there anything that you noticed about outsiders apparently coming on the campus in greater numbers? What did you notice about that?

A. There were adults who came on the campus, there were other young people with, I saw some Mississippi State sweaters there. You see, what happened was this, that when this trouble started, the radio was full of it, television was full of it, and people from distant points who heard these reports just flocked to the campus, and it took some of them some time to get there.

Q. Now, was the mood of the crowd any different from the time before, just before you heard General Walker make his speech, as to whether it was ugly or what?

A. I can't say whether Walker's speech had anything to do with the mood of the crowd or not, but the mood of the crowd became very ugly as the night wore on.

Q. And General Walker's speech?

A. Yes, sir.

Q. Did you notice anything about any additional weapons and the size of the weapons after his speech or not that was being used?

A. As the riot progressed, the weapons became more plentiful. You saw more of these pointed staves. You saw [fol. 1294] people scrounging around in the underbrush and over by this new building that was going up, collecting big pieces of rock. As I recall, it was about then that I began to see the Molotov cocktails.

Q. Describe what you saw with reference to the Molotov cocktails and where?

A. These were bottles. Some of them were Coke bottles, some of them were beer bottles filled with some inflammable liquid with a rag stuck down in them. Some of them had newspapers stuck down in them. And to ignite these things, you just lit the fuse and threw them.

Q. Were they being thrown toward the marshals?

A. I didn't see any of these being thrown at marshals.

Q. Where were they being thrown when you saw them?

A. I saw some flashes of light going up, up toward the upper end of the Grove.

Q. Toward the Lyceum Building?

A. Yes, sir.

Q. Did you see any of these Molotov cocktails being actually made, that is, the bottles being filled with this fluid that you mentioned?

A. No, sir, the only thing I could say is that at one point I saw some individuals siphoning gasoline out of an automobile parked on University Avenue and the siphon hose [fol. 1295] was in a bottle.

Q. Now, were you on the campus the next morning after daylight?

A. Yes, sir.

Q. At Old Miss?

Mr. Watts: I would like to enter an objection to this, just primarily for the purpose of shortening this thing, all this transaction after on the next day. I don't think it proves or disproves anything in this case.

Mr. Gooch: Well, it has to do with what happened the night before.

The Court: What page and line number?

Mr. Address: 70, line 10.

Mr. Watts: Primarily to shorten it, we will be here . . .

The Court: I think it's admissible.

Mr. Watts: All right, sir.

Mr. Gooch: Line 10, page 70.

Q. Now, were you on the campus the next morning after daylight?

A. Yes, sir.

Q. At Old Miss?

A. Yes, sir.

Q. What was the appearance of the campus?

[fol. 1296] A. It was a military camp.

Q. What was the appearance in the Circle as far as whether or not there was debris?

A. There was debris, there was the wreck, I mean the stalled bulldozer. There were bullet holes in the Lyceum front door casing. There was a heavy odor of tear gas everywhere. The flowers were trampled down, the grass was trampled. Trees had nicks in them, that type of thing.

Q. Were there remnants of concrete benches broken up there?

A. Yes, sir.

Q. Some of the iron, was it still laying around?

A. Yes, sir.

Mr. Watts: If Your Honor please, I am going to again object to the statements here, if there were weapons noticed in the Lyceum Building, way away from any place that—

Mr. Andress: Page 71, line 3.

Mr. Watts: He goes on to say a lot of things were taken, confiscated from dormitories down at line 20 and 21, which has no bearing on this lawsuit at all.

The Court: I will overrule you.

Mr. Watts: All right, sir.

Mr. Andress: May it go to the whole line there, Judge?
[fol. 1297] The Court: Yes, sir.

Mr. Andress: Thank you, sir.

Mr. Gooch: I will have to go back for the continuity.

Q. Some of the iron, was it still laying around?

A. Yes, sir. And inside the Lyceum Building, of course, there was an arsenal that had been collected on the campus

that night, including some of the ugliest weapons I have seen in my life.

Q. Now, you mean that had been collected by whom?

A. By officers of some description.

Q. These weapons had been taken away from the mob?

A. Yes, sir.

Q. In general, what were those weapons?

A. Chains, clubs, there was one thing that was a home-made spear that was made by taking what I would think would be about a one-inch auger bit and welding it onto a long piece of pipe which made a spear.

Q. Were there any guns or firearms that you saw?

A. Yes, sir, there was quite a collection of firearms.

Q. Rifles, shotguns or what?

A. Rifles, shotguns, pistols. Now, I might add this parenthetically, that some of these weapons were confiscated from [fol. 1298] dormitories. I know of one case where a student tried to turn in his hunting gun and he was apprehended.

Q. Now, did you see any of the burning cars or automobiles there that night on the campus?

A. I saw, yes, I saw one car that was burning. I can't remember now whether it was the canvas top vehicle. I believe that was it.

Q. Did you see any remnants of burned automobiles the next morning at or near the campus?

A. Yes.

Q. How many, if you could estimate?

A. I think it was only one that I can remember.

Q. Now, the report was that there, that two people were killed that night, is that correct?

A. That's correct.

Q. Was that your understanding?

A. That's correct.

Q. And a good many people were injured?

A. Yes, sir.

Q. Now, going back to your method of reporting that you told us about, that you didn't have time to keep notes, you had to remember the best you could.

A. Yes, sir.

Q. Memorize what was said and then at various intervals [fol. 1299] made a break for your line of communication. Is that a customary way to report news items under the situation you were working under there?

A. Under that kind of situation, it is. I have covered lots of them and that is about the only way you can do it.

Q. Now, did you have occasion to be at or present at an interview with General Walker after the Oxford riots that you have described?

A. I interviewed him here.

Q. At about what time, if you remember?

A. Oh, it was, it seemed to me sometime last year.

Q. That was in the year 1963?

Mr. Address: We think that would be objectionable, all this discussion here some months or years later.

The Court: What is the ground of your objection?

Mr. Address: That it has nothing to do with the case.

The Court: Not relevant?

Mr. Address: Not relevant, no, sir. Page 73, line 6.

The Court: Let's recess until about ten minutes until 4:00.

(20-minute recess.)

[fol. 1300] The Court: Mr. Nuss, have the record show the objection made by the Plaintiff's Counsel, made prior to the recess, is overruled.

Mr. Address: May it go to this entire line about this later matter?

The Court: Yes, sir.

Mr. Gooch: Deposition of Kuettner, of the Associated Press, Plaintiff's witness.

Mr. Cravens: United Press.

Mr. Gooch: United Press, excuse me.

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Q. Now, did you have occasion to be at or present at an interview with General Walker after the Oxford riots that you have described?

A. I interviewed him here.

Q. At about what time, if you remember?

A. Oh, it was, it seemed to me sometime last year.

Q. That was in the year 1963?

A. Yes, sir.

Q. What was the substance of that interview if you recall?

A. As I recall, this was an interview, a press conference that was called on the occasion of Billy James Hargis, who is the head of the, I believe he called it Christian Crusade, and General Walker was making some speeches for Hargis [fol. 1301] at that time and they were here to do one of the speeches and they had a news conference and I covered that just in the role of a newsman.

Q. Now, did you read or see any news from Jacksonville, that General Walker had made a statement down there that it wasn't any riot on the campus on the night of September 30, just a bunch of college boys having a lot of fun?

A. Yes, sir.

Q. Did you read that statement that he made?

A. Yes, sir.

Q. Did you ask him about that statement when he was here in Atlanta?

A. He repeated it at this news conference.

Q. What did he say, the best you recall, at this news conference about that?

A. To the best of my knowledge, I said, he was asked about the occurrences on the night of September 30 and he said, "This was just, this wasn't a riot, it was just a bunch of college boys blowing off steam, having a good time."

Q. He made that statement?

A. Yes, sir.

. . .

Mr. Watts: I would like to read my own redirect, if possible.

Mr. Gooch: Oh, sure, you can read anything you want to.

[fol. 1302] Mr. Watts: Do you want to sit there and answer the questions?

Mr. Gooch: Don't matter to me.

Redirect examination.

By Mr. Dunaway:

Q. Mr. Kuettner, going back to the first question that Mr. Cravens asked you, when this recess terminated just now, that General Walker was still on the monument speaking when you turned to go back to report to Atlanta. That is correct, isn't it?

A. Yes, sir, the best of my knowledge, it is.

Q. And it was, he asked you about somebody saying, "Let's go, Rebels," was that something that occurred when he admonished them to have no violence and they jeered him, was it after that?

A. I think so. It seems to me that this, "Let's go, Rebels," this was sort of a shout from one or more of these guys while Walker was still speaking.

Q. And did you see any group then leave where Walker was speaking when they had that shout, "Let's go, Rebels"? Did you see any crowd begin to leave the monument and go toward the Lyceum?

A. I couldn't say now that I remember that.

[fol. 1303] Q. Was there more than one person that said, "Let's go, Rebels"?

A. I think it was a single voice.

Q. A single voice?

A. Yes.

Q. And were you ever able to identify them or did you see the individual?

A. No, sir.

Q. Was he near you?

A. Within hearing distance.

Q. I mean physical proximity, was he across the crowd from you or somewhere near you?

A. It was within the crowd.

Q. Within the crowd?

A. Yes, sir.

Q. But after that statement was made, Walker continued to talk and you left?

A. Yes, sir.

Q. Now, when General Walker came on the campus and you first saw him with these two men abreast, three of them abreast, did he speak to you, did you speak to him?

A. I spoke to him. I just said, "Good Evening."

Q. Did you speak to him when he left?

A. Yes, sir.

Q. He said good evening to you then, didn't he?

[fol. 1304]. A. That's right.

Q. Do you know whether or not he knew you?

A. I don't think he did at that time.

Q. When you told Mr. Cravens that, something about nothing in these reports as being untrue, these reports, as I understand it, were originated here in this office in Atlanta, based on the information that you and Leon Daniel phoned in?

A. They were written from here, yes.

. . .

Mr. Watts: Now go, please to Page 81.

Mr. Gooch: Wait just a minute.

. . .

Q. And when you say persons were ahead of him and behind him when he first went on the campus, are you saying they were in his party or just persons?

A. They did not appear to be in his party.

. . .

Mr. Watts: The Plaintiff rests.

The Court: Ladies and Gentlemen, will you step into the jury room, please.

Mr. Gooch: I had one thing in connection with the Kuettner deposition.

The Court: I beg your pardon.

Mr. Watts: May I inquire if Counsel has the original [fol. 1305] UPI new release?

Mr. Cravens: Yes, sir.

Mr. Watts: Why don't we identify and offer it?

(Sotto voce conference of counsel outside the hearing of reporter.)

Mr. Watts: We'd better have a conference on this.

(Conference at the bench.)

. . .

Mr. Watts: If the Court please, the court reporter has previously identified Associated Press dispatches that were furnished by counsel for the Defendant. There is a great mass of dispatches here that would take probably the rest of the week to read. We have numbered and identified the specific releases for the court reporter's record here, and at this time I would like to offer in evidence Exhibit 1 through 9-J; and 3, inclusive, of 3-M, and each one of these have various letters. I guess I'd better offer them.

Exhibit 1-A and B. Exhibit 2-A. Exhibit 3-A, B, C, D, E, F, G, H, J, K, L, M.

Exhibit 4-A, B, C, D, E, F, G, H, I, J, K,—down through S; down rather not to but through S.

Now Exhibit 5-A through J.

Exhibit 6-A through I.

[fol. 1306] Exhibit 7-A and B.

Exhibit 8 and Exhibit 9.

Also, we have Exhibit 10. 11 is the plat. Then I do not know if we formerly offered Exhibit 11, which is the plat.

The Court: What about 10?

Mr. Watts: 10 is a news report which we do offer. There is no letters with 10.

Exhibit 12, I think we have offered that. Let's see. And we have 13.

The Court: 13 is in. I admitted those.

Mr. Gooch: We do object to them, if the Court please. I haven't checked through them, but I assume my objection—at least I move an objection unless the matters he has introduced have been encompassed within the Pleadings.

The Court: I will admit them with the understanding that they must have been encompassed within the Pleadings.

Mr. Watts: Incidentally, if Your Honor please, I do not in these releases find copies of the releases furnished to me which include news reports of November 21 and January 21 and 22nd, 1963. Are they in this stack?

Mr. Address: They are not in these.

[fol. 1307] Mr. Watts: They are not?

Mr. Address: No, sir.

Mr. Watts: I will need to identify them and offer them separately.

The Court: All right.

Mr. Watts: I have them right here in my briefcase. If Your Honor please, might we take about a five-minute recess?

The Court: Do you have anything to offer after Mr. Watts rests, when he gets through with this?

Mr. Gooch: I don't know. I am waiting to see what he offers on November 21st and 22nd.

The Court: All right.

Mr. Watts: The last one was 13. Here is 14 and 14-A.

(Plaintiff's Exhibits 14 and 14-A, were marked for identification.)

Mr. Watts: If it please the Court, Exhibits 14 are the Associated Press news releases under date of November 21, 1962. And Exhibit 14-A is the release under date November 22, 1962.

Exhibit 15 will be the Associated Press releases under—I am unable to tell the exact date, but these are the releases that include the Stubblefield report, that have the

Associated Press identification on them which I, at this [fol. 1308] period in the lawsuit still don't understand. So we will just mark that as Exhibit 15.

(Plaintiff's Exhibit No. 15, was marked for identification.)

The Court: Is 15 in several parts?

Mr. Watts: Well, there are several pages. Really ought to be stapled together.

Mr. Cravens: 15 is the Stubblefield report?

Mr. Watts: As far as I know. At least that is what you gave me.

Exhibit 16 is the Associated Press release under date of January 21, 1963. 1-21-63.

Exhibit 16-A is the AP release under date of January 22, 1963.

Mr. Gooch: The objection will still be the same, although I don't know for sure. My protective objection is, only if they are encompassed within the pleadings.

The Court: All right, I will admit Plaintiff's 14, 14-A, 15 and 16, if they are within the pleadings.

Mr. Watts: Yes, sir. The Plaintiff, with that rests.

The Court: All right.

The Plaintiff has rested.

Mr. Gooch: I would like to take up a matter with the [fol. 1309] Court.

The Court: All right, Ladies and Gentlemen, I have some matters which will probably take 30 minutes anyway, so I think I will just go ahead and let you go home this afternoon rather than have you wait in the jury room, so as far as you are concerned at this time we will be recessed until 9:00 o'clock, tomorrow morning. At that time be back in the jury room.

(Jury out.)

(Following proceedings were had outside of the presence and hearing of the jury.)

The Court: I believe I will take this up in chambers.

. . .

(Thereupon, at 4:20 o'clock, p.m., an adjournment was taken until Tuesday morning, at 9:00 o'clock, a.m., June 16, 1964.)

[fol. 1312]

Proceedings

Mr. Watts: If Your Honor please, we have a witness here who is a member of the Mississippi Highway Patrol. I had expected to hold him over here and use him on rebuttal, but he tells me that conditions are such that he cannot possibly stay, and I would like to ask the indulgence of the Court to use him very shortly this morning.

The Court: I will let you re-open. Just one witness, now.

Mr. Watts: Yes, sir, just this one witness, and I will cut him as short as I possibly can.

Let the record show, please, sir, that the Plaintiff requests leave to re-open, to offer the testimony of a witness, Gwinn Cole.

(Jury enters the Jury Box.)

The Court: Good morning, Ladies and Gentlemen. I have permitted the Plaintiff to re-open his case, to offer one witness, so this is the Plaintiff's witness.

GWINN COLE, called as a witness by the Plaintiff, having been first duly sworn, testified as follows, to-wit:

[fol. 1313]

Direct Examination.

By Mr. Watts:

Q. Will you state your name, please?

A. My name is Gwinn Cole.

Q. Mr. Cole, where do you live?

A. Jackson, Mississippi.

Q. Do you hold or have you held any official position with the State of Mississippi?

A. I have.

Q. What is that position?

A. I am assistant director, Bureau of Identification, Mississippi Highway Patrol.

Q. And for how long have you worked with the Highway Patrol?

A. Eighteen years.

Q. Mr. Cole, did you have any training to qualify you for the duties you perform?

A. Yes, sir.

Q. Now, are you a regularly appointed and acting officer in the Highway Patrol?

A. Yes, sir.

Q. What is the brief nature and extent of this training that you acquired to be an officer?

A. Well, I am a graduate of the FBI National Academy in Washington and I am a qualified ballistic expert and [fol. 1314] I am a qualified fingerprint expert.

Q. And have you had practical experience in performing those duties?

A. Yes, sir, I have.

Q. Over what period of time?

A. Over the past eighteen years.

Q. Were you on the Mississippi University campus on the night of September 30th, 1962?

A. I was.

The Court: Pardon me just a moment. Pull microphone over in front of you, please, sir.

By Mr. Watts:

Q. In what capacity were you there?

A. I was there as an official and an assistant to Col. T. B. Birdsong.

Q. Was he the Chief of the Highway Patrol?

A. He was Commissioner of Public Safety and, of course, he's got a chief directly under him.

Q. Was he on campus that night?

A. Yes, sir.

Q. Did you see him?

A. Yes, sir.

Q. And who else was there when the Highway Patrol—

A. Well, the Chief of the Highway Patrol was there and about sixty uniformed men and about twelve plainclothes investigators, including myself.

[fol. 1315] Q. Did the Highway Patrol have a briefing by its officials that night and receive orders?

A. Yes, sir.

Q. From that briefing and those orders, what did you learn as to the situation and what your directive was?

A. Well, we had—

Mr. Gooch: We object to that. It would be hearsay on the part—

The Court: Sustained. It would.

Mr. Watts: The briefing itself was.

By Mr. Watts:

Q. Did you have a mission that night to perform as a member of the Highway Patrol?

A. I did, sir.

Q. What was that mission?

A. We had information that there was about forty thousand Federal troops—

Mr. Gooch: If the Court please, we object to that as hearsay.

The Court: He asked you as to your mission.

Mr. Watts: Yes, sir.

The Court: What you were required to do.

A. My mission was—

Mr. Gooch: Just a minute. We move that answer be stricken from consideration of the Jury.

[fol. 1316] The Court: It's stricken and the Jury is instructed not to consider it.

A. My mission were there to keep down any violence that might occur on the campus that night.

By Mr. Watts:

Q. Did you have occasion to be out north of town, north of Oxford?

A. Yes, sir, I did.

Q. And was there any type of military installation out there?

A. Yes, sir.

Q. Did you see that installation?

A. Yes, sir.

Q. Did you know what it was for?

A. Yes.

Q. Did you know the nature and extent of the preparations incident to that installation?

A. Well—

Q. Well, within limits. I know you didn't know the details of them.

A. Yes, sir.

Q. Was that a Federal or State installation?

A. It was a Federal.

Q. And what was your knowledge as to the purpose of it?

Mr. Gooch: Object to that, if the Court please.

[fol. 1317] It would have to be hearsay.

The Court: Sustained.

Mr. Watts: Well, all right, sir.

By Mr. Watts:

Q. What relation did your mission have with the use of these troops or the projected use of troops?

A. Well, our mission then was to keep down any violence, to not—so that the Federal Government wouldn't

have any excuse by bringing the troops on the University campus.

Q. And did you organize your group and prepare to perform that mission?

A. Yes, sir.

Q. At what place on the campus was that done?

A. That was in front of the Lyceum Building, at the University.

Q. At what time?

A. That was about 6:00 p. m. in the afternoon.

Q. And pursuant to that directive, what was done?

A. Well, the Marshals, United States Marshals, lined up in a circle around the Lyceum Building and we stationed our patrolmen on the other side of the street, between the Marshals and the crowd of students who had gathered on the grass beyond the street—on the other side of the street from the Marshals. And we had them lined up there. [fol. 1318] Now, were the Marshals—to shorten this a little, were the Marshals east of the Lyceum and forming a ring around it?

A. Yes, sir.

Q. And were your Highway Patrolmen in a line to the east of the Marshals?

A. They were.

Q. And where were the students with respect to the Highway Patrol?

A. They were east of the Patrolmen.

Q. Roughly, how many Patrolmen were there?

A. Well, at that time there was approximately sixty Patrolmen and we had them coming in from all over the State; thereafter, they come in . . .

Q. Now, explain to the Jury, please, Officer, just what the activities of this group of students was or were before tear gas was fired.

A. This bunch of students had ganged up there on the grass in front of the Lyceum Building across the street, and, of course, they were heckling the Marshals, thumping

cigarette butts and about the biggest thing that I saw thrown was an egg up aside of one of the GI trucks—just general student misbehaviour, I would call it.

Q. Now, Officer, are you trained in the use of or in anti-[fol. 1319] mob tactics?

A. Yes, sir.

Q. And riot tactics?

A. Yes, sir.

Q. And as a part of that training, do you understand the purpose and the nature of employment of tear gas in such a situation?

A. I do, sir.

Q. Will you tell to the Jury what is the proper way of employing tear gas under those circumstances?

Mr. Gooch: If the Court please, we object to that as wholly irrelevant and immaterial—

The Court: Sustained.

Mr. Gooch: —to any issue in this case.

The Court: I am not going to permit him to testify to that kind of an opinion.

Mr. Watts: All right, sir.

By Mr. Watts:

Q. With the students out there as you stated, was there any physical contact at all between students and Marshals?

A. No, sir.

Q. All right, sir. Will you tell the Court and Jury what occurred and just endeavor to re-live this situation, Officer, and project to this Jury just what you saw.

[fol. 1320] A. Well, about, somewhere just before, say, from 6:00 p. m. in the afternoon, the Marshals lined up there and we officers, like all officers do, chatting with the Marshals. There were some from Texas and Oklahoma and all over the United States and naturally we were talking to them. They were friendly towards us.

James P. McShane, the Chief United States Marshal, at about 8:00 p. m., I was talking to him in front of the

Lyceum Building and, of course, the students would begin to come in from the week-end, from the ballgame, and they was all gathering up there more or less to sight seeing, I would call it.

And Mr. McShane, after we had, some of them would keep pushing, want to get down in the street and our Patrolmen would keep pushing them back on the grass.

So, just all out of a blue sky, Mr. McShane walked out in the street by the side of me—

Mr. Gooch: We object to what Mr. McShane may have done or what he may have said, if the Court please.

The Court: Overruled.

Mr. Gooch: Note our exception.

The Court: You may proceed.

Mr. Gooch: It's hearsay and—

A. Mr. McShane says, "Let's 'em have it, gas." And the [fol. 1321] Marshals fired directly into the group of Highway Patrolmen, in the back, wounded some, and directly into the students. And the gas was fired directly into the wind, which, in our opinion, is the wrong way to use it.

And all the students had to do is run back out of the gas into the wind and they would come back. Some of them disbursed and some of them would come back, two or three, and they just kept firing gas into them and finally broke them up into small groups.

Q. Now, for what period of time after the gas was fired did the students stay dispersed?

A. What period of time after the first volley was fired?

Q. Yes, sir.

A. Well, they would, I would say, five to ten minutes, they was going to their dormitories. We was telling them to get to their dormitories and somebody was going to get hurt, and, of course, the majority of them did go to their dormitories, but a few would group over on the right and a few over on the left and come back and throw rocks and brick at the Marshals.

Q. How far were you from McShane when he gave that order?

A. I wasn't but about two or three feet.

Q. And in what manner did the Highway Patrolmen [fol. 1322] employ their tear gas weapons? Were they on a curved or flat projectory—

As you were, strike that.

Mr. Gooch: This is wholly irrelevant and immaterial to any issue in this case.

The Court: How is it material?

Mr. Watts: If Your Honor please, the counsel at great length on cross examination—I'm sure he will on his, in his evidence—and I'm laying out the true facts to show just what happened precipitated this riot; that Walker had nothing to do with it whatsoever; that the entire build-up and the cause, proximate cause of the entire violence and riot was the wrongful act of firing—

The Court: Mr. Watts, I don't see that it is material at all.

Mr. Watts: All right, sir.

Mr. Address: They have gone into it rather at some length on cross examination, Judge.

Mr. Watts: We appreciate the opportunity of being able to put on the witness at all, sir, so I will try to hold it just to the facts.

By Mr. Watts:

Q. Now, then, Mr. Cole, you say for a period of five or ten minutes, the students were out of contact with the Highway Patrolmen?

[fol. 1323] A. Yes, sir.

[fol. 1324] A. Yes, sir.

Q. And did I understand you to say then, did they follow the gas back?

A. Yes, sir, they would follow the gas back up. After the first volley was fired, they would run out of the gas and then they would come back and, of course, after the first volley was fired the majority of them—we kept holler-ing telling them to get to their dormitories and get out of the way, and the majority of them left and would go to

their dormitories, but there were a few that kept staying there, and they would run out in different parts of the campus and on top of buildings, and around behind bushes, and what have you, and run back, and they would get a chance to throw rocks, and take off again.

Q. Was there ever—do you know what a charge is?

A. Yes, sir.

Q. Was there ever after that point, and within 10 or 15 minutes, a large charge of all the students?

A. No, sir.

Q. As they came back and this gas would dissipate, what size crowd would build up?

A. Oh, four or five, maybe six in a group, run up and throw rocks, and then take off to the bushes again.

Q. What size did the entire crowd build up to that was there across from the Marshals?

[fol. 1325] A. Well, there never was any large crowd after that first volley of gas.

Q. Where would they go, where did the big crowd go?

A. A lot of them went to their dormitories.

Q. Now were you out in the street at all times after this first volley?

A. Yes, sir.

Q. Were there rocks and missiles being hurled after the gas was fired?

A. Yes, sir.

Q. Did you have a helmet or anything on?

A. No, sir.

Q. How were you able to avoid the missiles?

A. Well, I would just try to get behind one of the Marshals that had on a helmet.

Q. And did any of the rocks or missiles fall close to you?

A. Yes, sir.

Q. How close?

A. Well, two or three feet, and they would hit our cars. We would get behind the cars, too.

Q. Mr. Cole, tell the jury just what the visibility was from the time they—the first mass of tear gas was fired?

A. Well, I would say after it was fired, the first volley, [fol. 1326] it was fired, and the wind was blowing and the gas would rise off the ground, and of course it would look like a fog underneath this gas.

And you could see approximately 100 to 110 feet underneath the gas.

Q. Do you know where the flagpole was?

A. Yes, sir.

Q. Could you from time to time see the flagpole?

A. Yes, sir.

Q. Could you see a single individual who was close enough to the Marshals to throw a rock?

A. Oh, yes.

Q. Could you see him in the actual throwing?

A. Yes.

Q. And what would the Marshals do when those lads would run up there and throw things?

A. Well, they would fire another round of tear gas at him, if they couldn't get ahold of some—some of them had their guns in their hands to try to scare them off.

Q. Now at this point where were you with respect to the front steps of the Lyceum Building?

A. Right in front of the steps, just off the sidewalk in the street.

Q. And could you at all times except when the tear gas had just been fired make out the outline of the Lyceum [fol. 1327] Building?

A. Yes, sir.

Q. All right, sir. Now had you known General Walker prior to this incident?

A. Yes, sir.

Q. Where did you first—where did you meet him?

A. Well, I had read about General Walker a lot and I had saw him on television, his pictures in magazines, and then I had met him one time at Jackson, Mississippi.

Q. How long did you visit with him when you met him?

A. Well it was just a short while, in a group there that was talking to him.

Q. Was there anything distinctive about his headgear?

A. Yes, sir.

Q. Would you step over here to the chart, please, sir, and bring that little pointer there with you.

To orientate the area here, this street is University Boulevard, this is the circle, here is the Confederate monument, the flagpole and the Lyceum Building (indicating).

A. Yes, sir.

Q. Would you take the pointer and point out to the jury where you were at the time the tear gas was fired?

A. Right there (indicating).

Q. What was the furthestest you got away from that [fol. 1328] point for the next—strike that.

How long were you in that area?

A. I was in that area until approximately 9:50 or 9:55.

Q. All right, sir. Did the Highway Patrol pull out from this area in front of the Marshals immediately after tear gas was fired?

A. Yes, sir.

Q. Where did they go?

A. They went off the campus—I mean down to the bowling—to the gymnasium, right over here (indicating).

Q. I see. The gymnasium?

A. Yes, sir.

Q. Did they later get in their cars and pull clear off the campus?

A. Yes, sir.

Q. What time did that occur?

A. About 9:30.

Q. Where were you when that happened?

A. In front of the Lyceum Building on the porch, or steps.

Q. From your testimony then, you stayed in that area until about 9:50 or 9:55?

A. Yes, sir.

Q. Take the stand, please, sir. At any time from the [fol. 1329] time gas was first fired until the Highway Patrol left were you out of the area for any period of time?

A. No, sir. After 9:50 or 9:55, I got on my radio to see where the officers went, and so they told me—

The Court: Just a minute.

Q. Oh, yes, don't say what they told you.

The Court: Just describe what you saw.

Q. Did you go in the Lyceum Building at any time?

A. Yes, sir.

Q. When and how often?

A. I went in there about two minutes after the gas was fired, and I come right back out about a minute after I went in there, and saw that my commanding officer wasn't wounded any way, and then I came right back out.

Q. Who did you see inside the Lyceum?

A. I saw Mr. Katzenbach and Mr. McShane, who fired the gas.

Q. Was Katzenbach the lawyer from the Department of Justice?

A. Yes, sir.

Q. All right, sir. As you stood out there in front of the Lyceum was your visibility such that you could see an individual moving across the north side of the circle from a point approximately at this sidewalk, and approaching the Lyceum? Could you see a man?

[fol. 1330] A. Yes, sir.

Q. That far away?

A. Yes, sir.

Q. Could you see a man well enough to where you could identify him as to what type clothes, and particularly what kind of hat he had on?

A. Yes, sir.

Q. If a six foot man with a big white hat had appeared in this area here (indicating), could he have escaped your observation?

A. No, sir.

Mr. Gooch: We object to that as a conclusion on the part of the witness, and move that the answer be stricken.

The Court: Sustained. The jury is instructed not to consider it.

Q. Tell us what the visibility was with respect to being able to identify a man six feet tall who had on a big white hat, from the position you were, and that man being in a position just east—as you were—just west of the north-south sidewalk? Tell us what you could have seen?

A. I could have seen well enough to identify him.

Q. What do you mean? Could you have seen him well enough to tell if he had somebody ahold of him by each arm?

A. I sure could.

[fol. 1331] Q. And could you have seen to this point well enough to where you could have identified, we will say, as many as 100 men behind him, if that had occurred?

A. Yes, sir.

Mr. Gooch: I object to that as a conclusion on the part of the witness.

Mr. Watts: That is not a conclusion.

Mr. Gooch: I have a right to object.

Mr. Watts: I have a right to answer.

The Court: Overruled.

Let me do the ruling, Counsel.

By Mr. Watts:

Q. Yes, sir, I am sorry.

Now, Mr. Cole, I wish you would brief the court and jury, please, as to exactly what you saw in this area in front of you from the time the gas was first fired until 9:30.

Mr. Address: 9:50.

A. Yes, 9:30. Well, directly in front of it I could see two or three students run up ever once in a while out of the bushes, like I say, and throw rocks at the Marshals, and I could see a few over here on this side run out. They were hollering and carrying on, and, of course, every time some would run out from behind the buildings, the Marshals would shoot at them with tear gas, and they would run

back, and—but I never saw over six or eight in one bunch [fol. 1332] at any time run up and throw rocks at them.

Q. Did, at any time from 9:30—from 8:00 o'clock until 9:30—from 8:00 o'clock until 9:30 did any group of people approach the Marshals with three men out in front of them, one with a big white hat on, and the other two on each side holding him by the arm, and as many as 50 people behind, immediately behind them?

A. No, sir, never did.

Q. Was there at any time a charge—strike that.

Was there at any time ever a movement toward the Marshals from that direction of as many as 1,000 people, any time all night?

A. No, sir, never was.

Q. Now are you familiar with the time that the Highway Patrol pulled out?

A. Yes, sir.

Q. How did they pull out?

A. In their automobiles.

Q. Did some of them go to the top of the circle?

A. Yes, sir.

Q. And from and after the time they pulled out until you left there at 9:50 or 9:55, was there any large movement of the crowd from the direction of the circle toward the Marshals that resulted in the throwing of a large number of rocks, bricks or missiles?

[fol. 1333] A. There were not.

Q. Prior to the time they moved out, what was the biggest group that ever approached the Marshals and threw rocks?

A. I would say not more than seven or eight.

Q. Now was that an organized activity, or was it sporadic?

A. It was not organized. No organization whatsoever.

Q. From and after the Highway Patrol left until you left at 9:50, what was the biggest single group that came out and threw missiles towards the Marshals?

A. Not more than seven or eight.

[fol. 1334] Mr. Watts: I believe that is all.

Cross examination.

By Mr. Gooch:

Q. Mr. Cole, you said that you knew what "a charge" was. These people that come out there, the six, seven and eight, and would throw at the Marshals, is that a charge?

A. A charge?

Q. Yes, sir.

A. I wouldn't call that a charge, no, sir.

Q. In other words, the group that came forward and threw the rocks, they weren't charging?

A. No, sir, I wouldn't call that a charge. I would just call it a disorganized group of students.

Q. Doing what?

A. Throwing rocks.

Q. But that wouldn't be a charge?

A. No, sir, I wouldn't call that a charge.

Mr. Gooch: That's all. Thank you, sir.

The Court: All right, I am going to excuse this officer.

Mr. Watts: Yes, sir, I would like to have him excused. He has to return to Mississippi. Thank you, Officer.

Mr. Address: We rest, now, Judge.

Mr. Watts: Plaintiff rests.

[fol. 1335] Mr. Address: Thank you.

(Sotto voce conference at the Bench, wherein Defendant renewed its motion made at the close of Plaintiff's prima facie case, the record to be completed later.)

Mr. Gooch: Could you give us about five minutes?

The Court: Yes, sir. Ladies and Gentlemen, step into the Jury room. The defense will start in a few minutes. We will give you about a 5-minute break now.

(Short recess.)

Mr. Gooch: Dean Love, will you come around, please, sir?

LESTON L. LOVE, called as a witness by the Defendant, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Gooch:

Q. Please state your name?

A. Leston L. Love.

Q. Where do you live?

A. At the University of Mississippi.

Q. Are you connected with the University of Mississippi?

[fol. 1336] A. Yes, sir.

Q. In what capacity?

A. Dean of the Division of Student Personnel and Professor of Education.

Q. How long have you been connected with the University of Mississippi?

A. Since October, 1949.

Q. What is your educational background, Dean?

A. I hold the Bachelor's and Master's Degrees from Oregon State and the Ph.D. from Ohio State.

Q. On September 30th, 1962, were you an official in the same capacity you have testified about with the University of Mississippi?

A. Yes, sir.

Q. Do you recall prior, the times, any times prior, briefly, to the 30th of September, 1962? Of a Court battle over the admission of James Meredith to the University of Mississippi?

A. Yes, sir.

Q. Prior to September 30th, 1962, had the Courts ruled, the Federal Courts, the Circuit Court ruled or not that Meredith was to be entered on the campus of the University of Mississippi?

A. Yes, sir.

[fol. 1337] Q. Prior to September 30th, 1962, had Gov. Ross Barnett or anyone acting in concert with him effec-

tively blocked the entrance of Meredith to the University of Mississippi?

A. Yes, sir.

Q. And how had that been accomplished, Dean?

A. Through the—the last one was that—through that doctrine of inter position and then Gov. Barnett barred entrance to the campus at one time and barred entrance to the Board of Trustees at another time and the Lt. Governor barred his entrance at one time, as I understand it.

Q. Was that physically barred?

A. I don't know what you mean by "physically barred."

Q. Well, were they present, these men that you are talking about—

A. Yes, sir.

Q. —present and refused to allow him to come on the campus, is that correct?

A. That's my understanding.

Q. Now, there has been much said about the September 30th, 1962, and I don't want to go into a lot of repetition. Were you present at any time on the campus on the University of Mississippi on September the 30th, 1962, when Federal Marshals were there?

[fol. 1338] A. Yes, sir.

Q. Do you know about what time the Federal Marshals got on campus that afternoon?

A. Approximately 4:00 o'clock in the afternoon.

Q. Did you go to the campus—I believe you lived on the campus. Did you go in the area where the Marshals were located?

A. Immediately after they arrived.

Q. And where is your office on the campus of Ole Miss?

A. In the Lyceum Building, first floor.

Q. Would you describe, as best you can, to the Jury the scene you saw when you arrived at the Lyceum Building somewhat after or around 4:00 o'clock p. m. on September the 30th?

A. The Lyceum Building, which is a large building, was surrounded by Federal Marshals standing shoulder to shoulder, completely surrounding the building.

A large number of Highway Patrol were also on the campus near where the Marshals were at that particular time. When I got there I went through that group immediately into the building.

Q. All right. Did you observe at that time whether or not there were any students or persons other than Marshals and Highway Patrolmen in the area of the Lyceum [fol. 1339] Building?

A. Very few at that time.

Q. All right. Now, describe generally what occurred after the time you got to the Lyceum Building that afternoon?

A. In the building at the time I got there, there were several Federal officials, officials of the Justice Department, in the building.

The Director of the State Highway Patrol was there, the Chief Marshal was there. I would say half a dozen Justice Department officials.

I was there. And Mr. Hugh Claik (phonetic), the director of development, came about the same time I did.

Q. All right. Now, did you have occasion to go back out in front of the Lyceum Building after your first entrance into the building?

A. Many times during the—in the next several hours.

Q. Now, you observed a moment ago that when you got there, there was a small group of students in front of the Lyceum Building?

A. Not even in front. Sort of off to one side at that particular time.

Q. All right.

[fol. 1340] A. Just a very few, as I recall it.

Q. Now, as time went on, what happened to the crowd? Did it increase or decrease?

A. It increased pretty rapidly.

Q. Now, getting down to somewhere around 7:00 or 7:30, in that vicinity, did you have occasion to be back out in front of the Lyceum Building where you could observe the crowd?

A. Yes, I went out and into the crowd at various times, surrounding there, trying to talk the students in the group into leaving and going to their dormitories, getting away from there.

Q. What was your response, Dean?

A. I wasn't very effective.

Q. All right. Do you recall the event of gas being fired that night?

A. Yes, sir.

Q. Do you know where you were when the gas was fired?

A. I was in my office at that time—or in the office adjacent to it, rather.

Q. Prior to the time that gas was fired on that evening, detail as best you can what you observed the students, or whoever they were out in this area, doing with respect to the Marshals.

[fol. 1341] Mr. Address: We would like to have the time fixed, Your Honor.

The Witness: I'll do the best I can on time because I didn't keep a log of it.

A. Perhaps the best way would be to start with this: That in the early stages there were relatively few students. Then there was a sort of a pep rally-type of yelling, and so on, waving of some flags. That's the best way I know how to describe that.

It was, I would say, relatively good-natured; that was the sound of it.

And as time went on, the crowd got louder and the character of the sounds they made, they sounded more—"vicious" isn't quite the word, perhaps—

Mr. Address: I believe this is calling for opinion, Your Honor.

The Court: Overruled.

Mr. Address: All right.

The Court: You may proceed, sir.

Mr. Gooch: Go ahead.

Mr. Address: May it go to the entire line, Your Honor?

The Court: No, sir. You make the objection.

Mr. Address: As to what it sounded like?

The Court: You make the objection whenever you think [fol. 1342] it is necessary.

A. The noises became louder and there were some more people out there and the—gradually, as time went on, the crowd was getting up closer to the Marshals, sort of crowding out into the street, so they were getting up not very far from them.

And there was, as I went out there at various times, I would hear remarks that were rather obscene made.

And eventually, there began to be little things thrown, not much, and began to be more up along to the time of the firing of the gas. And it was getting pretty rough before the gas was fired.

Q. All right. Now, I believe you stated that you were not in, out in front when the gas was actually fired. Could you see from your office window the front of the Lyceum Building?

A. Yes, sir.

Q. All right. Now, prior to the time that the gas was actually fired, do you know whether or not there had been any casualties to the Marshals?

A. A few came into the building. There was no one, as far as I recall, no one seriously hurt before that time but I did see, oh, two or three or four or five people with abrasions, apparently had been hit with something. And I heard that they had been—

[fol. 1343] Q. Were they Marshals?

A. I think so.

Q. Yes, sir.

A. I would say yes, they were.

Q. All right. Now, after the gas was fired, can you give a description of what happened out there in the Circle?

A. Well, the gas was fired over a long period of time.

Q. I am talking about right after the gas was fired.

A. I was not out there immediately after the gas was fired, but that drove the crowd back a ways, and then they would surge back up about to the edge of the street there, the width of the street in front of the Marshals.

And the crowd was increasing. And it was becoming pretty loud, pretty boisterous and pretty angry.

Q. At the last time you were out in the front of the Lyceum Building immediately prior to the time gas was fired, would you be able to then estimate the number of persons that were not Marshals or Highway Patrolmen that were in that Circle?

A. It's difficult to do and if you think about around the whole building and if you think about those who were back a little ways, without being too sure of myself at all, of [fol. 1344] course, I would say that maybe 1500 people.

Q. All right, sir. Now, after the gas was fired, did you observe the crowd after that as it would come in back toward the—you said surging forward toward the Lyceum?

A. Yes, I was out not just once but many times after that gas was fired, in and out of the building and watching that.

Q. Would you say, based on your best judgment, that the crowd decreased or increased after the gas was fired?

A. I would say for a time that it probably increased.

Q. All right. Would you say for how long a period of time or would that be just an estimate?

A. It would certainly be just an estimate and I hesitate to answer because I'm not certain.

Q. All right. Now, this crowd that was out there, were they all participating in these throwing of things at the Marshals or was there a lesser group that was participating in that?

A. I would say there was sort of three rings out there:

One was a front line group that was pretty active and pretty angry and participating very much in the riot—very, very actively participating.

[fol. 1345] There was a group back of them that seemed

not to be participating, more just wanting to be up to see what was going on. They were up pretty close.

And then farther back, I think there were just spectators, pretty largely spectators farther back in many of the areas.

I went through that group at one time, talking to that hard-corps group, trying to get them to disperse, went into that second group, got some of them to leave. And I never did move on back to those that I thought were just spectators.

[fol. 1346] Q. Now the situation as you have described it, was that before the gas was fired?

A. Before and after.

Q. Now after the gas was fired did you have occasion to go out there in the—in front of the Lyceum Building?

A. Several times.

Q. What did you observe there that was happening in that circle, Dean Love?

A. Well, of course, there was movement going on out there. I could see—a couple of times I saw small groups moving up from further away toward the center, more toward the center of activity, and the gas would be fired, and the crowd would move back. Sort of back and forth movement, part of the time.

Q. Did you observe anything being thrown at the Marshals by any of this crowd?

A. Yes, sir.

Q. Dean, how long did that situation exist, where some of them would break away from the crowd and come up and throw at the Marshals?

A. I really don't know because I was occupied inside the building so much, and my concern was with the group immediately up there, rather than those back. Anything I observed back there was more or less casual. I saw some movement but paid no particular attention to it.

[fol. 1347] Q. Did you make every effort, any effort, Dean, in your capacity as Dean, to try to stop the riot?

A. Yes, sir.

Q. What did you do? Was it successful or not?

A. I didn't have—I tried to get ahold of a loud speaker so I could talk to them, but I was unable to get one.

Q. All right. Now, how long did you remain in the Lyceum Building that night, Dean?

A. I left there one time to go to the Union Building to meet with the student body president and the cabinet, and the leaders in the student government, who were having a meeting. That was about 8:30 at night, and I was gone about 20 or 30 minutes at that particular time.

Q. Was a meeting of the student cabinet held at about 8:30 that night?

A. The time was set for exactly 8:30. I remember that very clearly.

Q. Did you attend that meeting?

A. I attended that meeting.

Q. It would be hearsay and not admissible as to what went on at that meeting, but as a result of that meeting, did the student leaders do anything that you know of?

A. The public address system that is available there at the student union building was manned constantly trying [fol. 1348] to get the students not to come down in the area. It was located in a position that it couldn't reach those out in front of the Lyceum Building. They wouldn't be able to hear it. It was to keep others away.

Then after that some of the student leaders went out into the crowd and tried to talk people away.

Q. Did they have any success?

A. I don't know.

Q. All right. Now during the—I believe I asked you what time you left the Lyceum Building that night, or the next morning. Do you remember?

A. It was about 2:00 o'clock in the morning.

Q. Now during the time you were in the Lyceum Building there—strike that question.

At the time that you went outside the Lyceum Building and observed this crowd were you able to discern whether or not the group was composed entirely of students, or were there some outsiders there?

A. There were outsiders.

Q. Dean Love, you have worked with college age and college looking students for a long time, haven't you, Dean?

A. Yes, sir.

Q. And having been in that business are you pretty well able to tell what is a student and what is not?

[fol. 1349] A. If the extremes are great enough you can tell.

Q. Now during the time you remained at that Lyceum Building that night, were there any casualties brought into the Lyceum Building?

A. A good many.

Q. About how many?

A. There were a few real serious ones. The first one we thought was going to die on the floor right there. One Marshal.

And then there was one with a broken leg, and then somebody with a shot in the back that wasn't serious. Somebody that had been hit in the head, and then I would say they ranged down from those.

The number was pretty large. I don't know how many.

Q. Would you estimate about how many people were brought in there suffering from some sort of casualty?

A. You mean just anything?

Q. Yes, sir.

A. I would have to say I am not sure of my answer but I would say 50.

Q. All right, do you know whether or not any person was brought in there under arrest?

A. Yes.

Q. Did you have any idea of the number of those persons?
[fol. 1350] A. There were one hundred—about 160 people arrested. Not all of them were brought into the Lyceum

Building. I think the number brought into the Lyceum Building must have been 75 or 80 or 90.

Q. Of the number who were arrested did you make any check to determine what percentage of those arrested were students as compared to outsiders?

A. Yes, sir.

Q. What was that?

A. About 25 of this 160 who were placed under arrest were University of Mississippi students.

Q. The rest of them, I assume, were outsiders?

A. Some college students from other places.

Q. All right. Now, Dean, how had you gone over to the Lyceum Building that evening?

A. I was at the Chancellor's house, which is on the campus at the time the Marshals came, and I drove over in my car from his house.

Q. Where did you park your car there, Dean?

A. Almost directly in front of the Lyceum Building.

Q. Did anything happen to your car that night?

A. Certainly did.

Q. What?

A. It was hit with tear gas cannisters and all the glass knocked out, and burned some on the inside; I mean from [fol. 1351] the tear gas. And the chrome was torn off.

Q. All right, did you go home in your car, or walk home?

A. Neither. I was taken out the back way by one of the men who was there in the Lyceum Building who knew a way that he could get out.

Where my car was parked I didn't choose to drive through what I would have had to have driven through.

Q. Was the rioting still going on, when you left there that morning?

A. Seriously.

Q. Did you ever hear that General Walker was on the campus that night?

Mr. Address: I object to what he heard, Your Honor.
The Court: Overruled.

Mr. Andress: Hearsay.

The Court: You may answer.

A. Yes.

Q. Do you remember about what time it was?

A. I would say it was in the neighborhood of 9:00 o'clock, something like that.

Q. Dean Love, did you keep up with the—or was there any way to determine the comparison of the tempo of the crowd that night?

[fol. 1352] A. I am not sure that I know quite what you mean.

Q. I am talking about the violence and the intensity of the violence.

A. It became much greater as time went on.

Q. Directing your attention to somewhere around 9:00 o'clock, would you be able to state whether or not the intensity of the violence increased after that?

A. Yes, I thought it did. I know that it did. Though the students gradually began to disappear. It was not too long after that.

Q. You say the students began to disappear. Did anybody take their places?

A. More people—more people came in. The total size of the crowd dropped, but it began to be—it was not so much of a student crowd, but there were—I would say by 10:00 or 10:30, that a pretty large share of the students who had been out there were gone.

Q. But there were others?

A. Yes.

Q. Now did you hear any reports of firearms, or firearms reports that night?

A. Yes, I did.

Q. Will you describe that to the jury, please.

A. Well, when I stepped out of the Lyceum Building I heard a bullet whistle by my ear. That was imbedded in [fol. 1353] the front of the building there.

There were several bullets in the course of the night that were imbedded in the front of the Lyceum Building.

Q. Would you be able to fix the time at about what time this bullet whistled past your ear?

A. I am not certain. It was not early. It was along 10:00, 11:00, 11:30 or 12:00, something like that.

Q. It didn't make too much difference to you about time at that moment, did it, Dean?

A. That was my least concern.

Q. Now were you able the next day to determine how many bullet holes or bullets, evidence of bullets coming into that Lyceum Building were visible?

A. I would say that on the front of the Lyceum in the woodwork there, oh, seven or eight or ten bullet holes, and then one went through a window and then two windows were cracked, apparently from spent shotgun pellets.

Q. There is some water there if you care to wet your throat, Dean.

You retired from the Lyceum Building to—at 2:00 a.m. Did you return there the next morning?

A. At 8:00 o'clock.

Q. Now can you describe generally the state of the campus, and particularly from in front of the Lyceum Building eastward toward the monument, when you got there the [fol. 1354] next morning?

A. I walked through the campus the next morning from my home, which I suppose is half a mile from the Lyceum Building. And as I reached what we call the grove, which I suppose would be the far side of the grove, oh, 300, 350 or 400 yards from the Lyceum Building—

Q. Can you stop right there just a moment. The grove has been used interchangeably by the witnesses in this case. They have used the word grove, and circle. Will you step down here with me just a moment.

On Plaintiff's Exhibit 11—it is a scaled map of the University of Mississippi, and I see up here to what I would say would be the northeast of the Lyceum Building a large place entitled "the grove," is that what you refer to as the grove?

A. Yes, sir.

Q. That is not what we have been referring to as the circle where the monument and the flagpole is?

A. That is correct.

Q. I say are they synonymous?

A. No.

Q. In other words this is the grove up here to the northeast?

A. Two entirely different things.

Q. You are talking now about the grove?

[fol. 1355] A. Yes.

Q. Have your seat, please, sir. You had gotten from your home on the way to school to the grove?

A. Yes.

Q. What did you see there?

A. One of the things I happened to observe was that quite a few—I guess cement seats out in the grove, and those were all broken up and most of them were missing, apparently been broken up to use for ammunition.

Mr. Address: That is a conclusion, purely, Judge.

The Court: Sustained.

Q. Just say what you saw, Dean. The benches were broken up?

A. I am sorry. Those seats—most of them had been pretty well broken up in there. Then as I got up nearer the circle the—of course there was lots of tear gas around there still, but I was still able to see through some of that, and the whole place—the first thing I saw was several burned cars around the circle. And I don't know, six, maybe. And they were badly burned, and I saw my own sitting over there and saw that it was damaged, and one of my staff member's car was right by mine and it was damaged and around in the circle there there was, oh, kind of debris, I guess you would call it, broken up bricks and glass and many things like that, and tear gas cannisters [fol. 1356] there. It was really a very badly cluttered up place.

Mr. Gooch: Please mark this as a Defendant's exhibit. I don't know what it is. I believe it is 18. Defendant's Exhibit 20.

(Thereupon, Defendant's Exhibit No. 20, was marked for identification.)

By Mr. Gooch:

Q. Dean Love, I hand you what has been marked Defendant's Exhibit 20, and can you recognize any of the items you see in that picture?

A. Of course the building is the Lyceum Building, the main one in the background. And this picture must have been taken the next morning.

Mr. Address: Now just a minute, Your Honor.

Mr. Gooch: He can tell what it is.

Mr. Address: He says, "Must have been taken the next morning." Either it was or wasn't.

The Court: Ask him if he saw it.

By Mr. Gooch:

Q. To get out of this, Dean Love, does that picture depict the scene in front of the Lyceum Building that you saw around 8:00 o'clock on the morning of October 1, 1962?

A. Yes, sir.

Mr. Gooch: We offer it in evidence, if the Court please.

The Court: Defendant's Exhibit 20, is admitted.

[fol. 1357] Mr. Gooch: Mark this Defendant's Exhibit 21.

(Thereupon, a photograph was marked Defendant's Exhibit No. 21 for identification.)

By Mr. Gooch:

Q. Dean Love, I hand you what has been marked as Defendant's Exhibit 21. Can you or not identify this as a scene that you observed in the early morning of October 1, 1962?

Mr. Watts: If we can be looking at the others, it will save a lot of time.

A. Yes, sir.

Mr. Address: This hasn't been identified, Your Honor, as to where it is. It is a scene the following morning.

The Court: I am going to overrule that, if he is offering it.

Mr. Gooch: I am offering it in evidence, if the Court please.

The Court: It is admitted.

Mr. Gooch: Will you mark this as Defendant's Exhibit 22.

(Thereupon, a photograph was marked Defendant's Exhibit No. 22 for identification.)

By Mr. Gooch:

Q. Dean Love, I hand you what has been marked as Defendant's Exhibit 22, and ask you if you recognize any of the elements shown in that picture?

[fol. 1358] A. They look like, very much like—

Mr. Address: Now if the Court please, we think the answer to that is yes or no.

The Court: Mr. Address, the proper time to object is after the exhibit is offered, not while he is trying to identify it, so you are overruled at this time.

Mr. Address: All right, sir.

A. This is a picture of the scene along in the late afternoon of September 30th.

Q. 1962?

A. Yes, sir.

Q. Can you observe the Lyceum Building in that picture?

A. Yes.

Q. Can you observe the Marshals?

A. Yes.

Q. Can you observe the students or onlookers in that picture?

A. I would say students and onlookers.

Mr. Gooch: We now offer in evidence Defendant's Exhibit 22.

Mr. Address: We object to it because it has not been properly identified, Your Honor.

The Court: Overruled. It is admitted.

[fol. 1359] (Thereupon, photographs were marked Defendant's Exhibit Nos. 23, 24, 25, 26, 27 and 28, inclusive, for identification.)

By Mr. Gooch:

Q. Dean Love, I now hand you what has been marked as Defendant's Exhibit 23, and ask you if the items portrayed in this picture are familiar to you?

A. Yes, sir, they are.

Q. And when did you see the scene such as is depicted in that picture, Dear?

A. The first time on the morning of October 1st, in the neighborhood of 8:00 o'clock.

Mr. Gooch: We offer in evidence Defendant's Exhibit No. 23.

Mr. Address: We object to it because it has not been properly identified.

The Court: Mr. Gooch, the witness hasn't testified as to where the picture was.

By Mr. Gooch:

Q. All right, can you identify it as to the location of the items as depicted in Exhibit 23? Was it on the campus of the University of Mississippi?

A. It was on the campus of the University of Mississippi and on the circle, in the circle.

The Court: Defendant's Exhibit 23, is admitted.

[fol. 1360] Q. Dean Love, I hand you what's been marked as the Defendant's Exhibit 24, and ask you if you can

identify the content of that picture as to location and time, if you observed the pictorial matters that are depicted in that picture?

A. This is on the Circle again and I observed this and the other cars on the morning of October the 1st at approximately 8:00 o'clock for the first time.

Mr. Gooch: We offer in evidence Defendant's Exhibit No. 24.

Mr. Address: We object, as it has not been properly proven.

The Court: Overruled. Defendant's 24 is admitted.

By Mr. Gooch:

Q. Dean Love, I hand you what's been marked for identification as Defendant's Exhibit 25. I'll ask you to look at that photograph and tell me whether or not you can identify the building and the scene as it is depicted in that picture?

A. The building in the picture is the Lyceum Building and the scene there is as it appeared when I went to the building early in the morning of October the 1st, about 8:00 o'clock.

Mr. Gooch: We offer Exhibit No. 25 in evidence.

Mr. Address: We object to it as not being properly [fol. 1361] proven and not being relevant.

The Court: Overruled. Defendant's 25 is admitted.

By Mr. Gooch:

Q. Dean Love, I hand you what's been marked as Defendant's Exhibit 26, and ask you if you can identify the matters depicted in that picture, as to time and location?

A. That would be after dark. It's a picture of the Lyceum Building taken from north of it and this would have been after dark on the night of September 30th or even conceivably early in the morning of October the 1st.

Mr. Gooch: All right. We offer in evidence Defendant's Exhibit No. 26.

Mr. Address: No objection.

The Court: Defendant's 26 is admitted.

By Mr. Gooch:

Q. Dean Love, I hand you what's been marked Defendant's Exhibit 27 and ask you if you can identify the matters as shown in that picture, as to time and location?

A. This is the front of the Lyceum Building and, of course, it's a picture that was taken after dark. There isn't enough detail here that I would know how to estimate the time.

Q. Would you say it was a picture taken after dark on the evening of September the 30th, 1962?

[fol. 1362] A. Yes, or, again, I would say it could conceivably have been real early on the morning of October the 1st.

Q. Was it during the darkness?

A. During the darkness.

Q. All right.

Mr. Address: No objection—have you offered it?

Mr. Gooch: Oh, no. I now offer in evidence Defendant's Exhibit 27.

The Court: It's admitted.

Mr. Address: No objection.

By Mr. Gooch:

Q. Dean Love, I hand you what's been marked Defendant's Exhibit 28, and I'm not sure as to whether or not it is a duplicate of one issued earlier.

Will you look at that and see if that's a duplicate of a picture that has been introduced prior?

A. This one has not been introduced prior, I feel positive. This is in front of Carrier Hall.

Q. All right, sir. And what does that depict?

A. It's on the Circle.

Q. And did you observe a scene such as that when you arrived there on the early morning of October the 1st, 1962?

A. Yes, sir.

Q. Does that scene identify any permanent campus ob-
[fol. 1363] ject?

A. The principal object is Carrier Hall, the Engineering Building, which faces the Circle—well, south of the Circle.

Q. Does the Carrier Building face north toward the Circle?

A. Yes.

Q. And in about what distance from the, shall we say, crosswalk that intersects the campus in a north and south direction?

A. Fifty-seventy-five yards, perhaps.

Q. Will you step down a moment to the map just to identify Carrier Hall? On the map here, I believe that Carrier Hall is depicted as almost straight away with the north and south walk that intersects the Circle on the south of the circle, facing north, is that correct?

A. Correct.

Mr. Gooch: We now offer in evidence Defendant's Exhibit 28.

Mr. Andress: It's not been properly proven and we object to it on that ground, that it's not properly proven and not relevant.

The Court: Overruled. Defendant's 28 is admitted.

Mr. Gooch: I will pass the witness for cross examination.
[fol. 1364] tion.

Cross examination.

By Mr. Andress:

Q. Dr. Love, were you personally present at the time that Meredith was barred from the campus?

A. No, sir, I wasn't.

Q. All you know about it, then, was what you heard?

A. That's right.

Q. Where were you on the campus when the Marshals arrived?

A. At the home of the chancellor of the University.

Q. How did you know the Marshals were arriving?

A. I saw them drive past—we saw them drive past his residence.

Q. You mean you had no advance notice that Marshals were going to arrive on the campus?

A. No, I didn't mean that. We knew maybe an hour before.

Q. How did you receive the information that the Marshals were going to arrive on the campus?

A. Mr. Hugh Cleeg, the Director of Development, was also at the Chancellor's home and was in telephone communication with some member of the Justice Department; I'm not sure who it was.

[fol. 1365] Q. Were you having a conference of the top University brass over there at the Chancellor's house, because of this situation at this time?

A. Yes.

Q. And the Chancellor, of course, Chancellor Williams, is his name, isn't it?

A. (Witness nods "yes".)

Q. He's the head of the University?

A. Yes, sir.

Q. And who would be second in command?

A. The Provost of the University would be second in command.

Q. Who was the Provost?

A. At that time it was Dr. C. H. Haywood.

Q. He was there?

A. No.

Q. Where would you rank in the chain of command, Dr. Love?

A. There is the Chancellor and three major divisions—four major divisions of the University: The Business, the Academic, the Development, and the Student Personnel. I am head of the Student Personnel Division.

Q. So you would be one of the next echelon, just below the Provost, is that right?

A. Yes.

[fol. 1366] Q. And were the heads of all these other divisions there at this conference that Chancellor Williams had when the Marshals arrived?

A. No.

Q. So you had Mr. Cleeg and Chancellor Williams and yourself, and who else was there?

A. That's all.

Q. Now, I wonder if you would mind taking your pointer there and showing where Chancellor Williams lived? Up on Faculty Row, is it, that I believe is over here?

A. Sorority . . . I have to get—

Q. Here is Sorority.

A. Here is the Chancellor's residence (indicating).

Q. That's the Chancellor's residence down there just north of the Grove.

A. Yes.

Q. And where do you live, please, sir?

A. I live right there (indicating).

Q. You live at the one that is marked number 25, up on Sorority Row, farther north; is that right?

A. Yes.

Q. Now, did the Marshals, when they came in, come up off of old Highway 6 and down Sorority Row?

A. That is new Highway 6.

Q. Oh, new Highway 6? I thought the by-pass was south [fol. 1367] of town here. That is new Highway 6. They came off of new Highway 6, then, and—pardon me—they came off of new Highway 6 and down Sorority Row and around the Grove, Loop and University Circle, until they got in front of the Lyceum, is that correct?

A. I don't know the de—it would just have to be that way. I didn't actually see them.

Q. But, at any rate, they did come past the Chancellor's house here in Sorority Row, close to the Grove?

A. That's correct.

Q. Did you hear the rumble of the truck—thank you, if

you will sit down again—did you hear the rumble of the trucks as you were there?

A. I don't know whether I heard the rumble of the trucks or just happened to be looking out of the window.

Q. Were you watching for the trucks?

A. No, I wasn't. We were in a little study that faces out onto the road there.

Q. Well, all three of you knew that the Marshals were coming?

A. Yes.

Q. Did you know where they were coming from?

A. No.

Q. Now, that evening or right after they arrived on the [fol. 1368] campus—what time did you say they arrived?

A. About 4:00 o'clock.

Q. And you, then, went over to the Lyceum after they arrived?

A. Within a very few minutes afterwards.

Q. You drove over, I believe you said?

A. Correct.

Q. And had the trucks, the transport trucks, the personnel carriers, left the area or were they still in front of the Lyceum?

A. There were some still in front of the Lyceum. I'm not sure how many.

Q. About how many Marshals were there at that time?

A. I would say several hundred. At least they were standing shoulder to shoulder essentially around the, completely around the Lyceum Building.

Q. At that time did you know Mr. McShane?

A. You mean before they came?

Q. Yes.

A. No, I did not.

Q. And had you been in conference with him?

A. No.

Q. Did you know Mr. what's-his-name? Katzenbach.

A. Katzenbach?

Q. Katzenbach.

[fol. 1369] A. I did not.

Q. What is his first name, do you know?

A. Nicholas, d-e, capital B.

Q. Nicholas B. Katzenbach?

A. Small d-e, capital B. I don't know what it stands for.

Q. He's an American citizen?

A. As far as I know.

Q. Now, when you went into the Lyceum, besides Nicholas de Katzenbach, what other Federal officials were in there?

A. Mr. McShane, the Chief Deputy Marshal was in there. A man by the name of Guthman.

Q. Gutman?

A. Guthman, G-u-t-h-m-a-n (spelling), I believe is the way it is spelled. He was a public relations officer for the Justice Department.

Q. Public Relations Officer? All right, go ahead.

A. There was a Mr. Shlei.

Q. Shly?

A. S-h-l-e-i (spelling). And Mr. Dorr, I believe, was in there.

Q. D-o-r-r (spelling)?

A. I think that's the way it is spelled. I'm not certain.

[fol. 1370] Q. Is that the crop?

A. As far as I recall it, for the Federal officials.

Q. That's five men. You have said there were six of them.

A. Well, I may have been wrong in saying six and there have been another one whom I don't recall.

Q. Who was in charge?

A. Mr. Katzenbach.

Q. And Mr. Nicholas de Katzenbach is a what? Assistant Attorney General of the United States?

A. I believe his title is Deputy Attorney General, Deputy United States Attorney General.

Q. All right. Now, I believe you stated that at the beginning of the evening, this was pretty much a pep rally-type of thing?

A. That's the way it sort of sounded to start out with.

Q. And later on, you said that it became more vicious. Would you say that it eventually turned into a mob?

A. Yes.

Q. Now, at what point did it cease to be a pep rally or Halloween-type thing and become a mob?

A. It was a continual—I wouldn't know when to say it was one or the other.

[fol. 1371] Q. Well, with reference to the firing of the first volley of tear gas into the crowd, when would you say that the change from pep rally into mob occurred?

A. It had occurred before that.

Q. It had occurred before that?

A. I would say so.

Q. Would you say that the firing of the volley of tear gas into the group accentuated its unhappiness?

A. Nobody was happy.

Q. The firing of the tear gas, however, do you know whether the public relations officer of the Justice Department had anything to do with the firing of the tear gas?

A. I wouldn't know.

Q. You don't know whether or not that was considered part of the public relations duties?

A. I don't know.

Q. Well, did it improve the public relations as between the students of the University of Mississippi and the Federal Marshals?

A. The whole situation was deteriorating steadily and I don't know how to say what did what, really.

Q. But you didn't see anything more of the pep rally-type thing after the tear gas was fired, did you?

A. That's correct.

[fol. 1372] Q. And do you know approximately when that tear gas was fired?

A. Somewhere around 8:00 o'clock or a few minutes after.

Q. Were you inside at that time listening to the President's speech or looking at the President's speech?

A. I was doing—I was inside and I was doing neither. I don't remember exactly what I was doing, but I just simply heard it fired and didn't know what it was at first.

Q. Did you hear the President's speech?

A. No.

Q. You didn't look at it?

A. No.

Q. Would you say that the tear gas was fired before any effect, before the President's speech could have had any effect on the people that were around?

A. The people who were around certainly were in no position to hear the President's speech or to see it on TV, those who were around the building. I don't even know what time the speech was given.

Q. Do you know whether there were the usual bunch of portable transistor radios that the students had with them?

A. I really don't know.

[fol. 1373] Q. Now, when was it that you made an attempt to get a large loud speaker for the crowd?

A. I tried two or three times and we even tried to get one of our own brought in, which we were unable to do. But they couldn't get in there.

And it was along, I would hate to say when, 8:00 o'clock, 9:00 o'clock, some such time; I am just not clear about the time.

Q. Would you say that it was before that first volley of tear gas was fired?

A. I know we talked about it before that time, if we could get one, and couldn't.

Q. Well, now, why couldn't you get one, Dr. Love?

A. Well, we thought we would be able to get one from the people who were there. They thought they had one there and they didn't. And we were on—we were not expecting this and we, they said we didn't have any equipment in the building at all of that sort.

Q. The Marshals didn't have any loud speaker or communication system there?

A. They had none that I could get. They used none.

Q. Well, did they have one there?

A. I didn't see one.

Q. Did you ask them if you could use one to try and quiet the crowd?

[fol. 1374] A. Yes, yes.

Q. Did they refuse to let you have one?

A. It wasn't a case of refusal. There was some comment to the effect that it was not operational at the time.

Q. There was, however, a loud speaker that the Marshals had there with them; is that right?

A. I had never saw it.

Q. Did they tell you that there was one but it was not operational?

A. Yes, something to that effect.

Q. Who told you that?

A. I have no idea which one it was.

Q. Well, was it—you don't know whether it was Mr. Nicholas de Katzenbach or not?

A. I feel it was not he, but I don't know who it was.

Q. And if you had had an operational loud speaker there prior to the time the tear gas was fired, do you believe that perhaps you could have some influence on the crowd?

The Court: Just a minute.

Mr. Gooch: If the Court please, we object to that as improper cross examination.

The Court: Sustained.

[fol. 1375] Mr. Gooch: Calling for an opinion and conclusion.

By Mr. Andress:

Q. Now, Dr. Love, you are in charge of student personnel?

A. Yes.

Q. And as the man in charge of student personnel, the relations between the University authorities for the maintenance of discipline of students are in your charge?

A. Yes.

Q. And it is your responsibility to quiet and calm students from causing any trouble on the campus?

A. If I can.

Q. And did you want to attempt to do that that night and in pursuance of your duties?

A. Oh, of course.

Q. And was it your opinion that you could do something about it?

A. I was completely uncertain. I wanted to try anything that I thought might work.

Q. And did you, in the said pursuit of your duties, feel that if you had had a loud speaker system—

The Court: I just sustained an objection to that, counsel. It's not coming in.

Mr. Address: I have laid a predicate for it.

The Court: No, you haven't. You may proceed.

Mr. Address: All right, sir. We would like it for the [fol. 1376] Bill subsequently.

By Mr. Address:

Q. Now, are there loud speaker systems on the campus of the University of Mississippi?

A. That's correct.

Q. Did you make any attempt to get one of those?

A. Yes.

Q. And what prevented that?

A. That was after the tear gas was fired and things were so very rough and we simply couldn't get it in.

Q. Did you receive any assistance from the Marshals or these five Federal officials there about getting a loud speaker in from anywhere else on the campus?

A. I don't think we asked them; that we tried to get on the telephone and see if we could get one brought in that was available on the campus at some distance off.

Q. Tell me, is the Lyceum Building the general offices of the administrative officers of the University?

A. Yes, sir, the major officials have their office there.

Q. What other major officials were present in the Lyceum that night, Dr. Love?

A. Mr. Cleeg was there for a period of time and then he had to leave to get with the Chancellor and try to do some other things. And then I called in three or four of my men to come in to help.

[fol. 1377] Q. By "three or four of your men," you mean your assistants in the Department of Student Personnel?

A. Correct.

Q. Were there any State officials there other than as distinguished from University officials?

A. The Director of the Highway Patrol was in there for a period of time.

Q. That would be Col. Birdsong?

A. Yes.

Q. And did you see his assistant, Officer Cole, that was here this morning?

A. Not as far as I can recall.

Q. Did you know him before?

A. I am not sure. The name was very familiar, but I am not sure whether I know him personally or not.

Q. Now, you were, then, the highest official of the University that was present in the Lyceum after—well, even before Mr. Cleeg left, weren't you?

A. Well, I wouldn't say I was higher than Mr. Cleeg.

Q. No. Well, all right. After Mr. Cleeg left, you surely were?

A. I guess that's correct.

[fol. 1378] Q. And then as far as the University was concerned in that situation there, you were Senior in command?

A. Within that particular segment, with the Chancellor and others working in other areas.

Q. Well, now were you issuing as—being in command, were you issuing instructions as to people working there with you, or were you completely under the control of the Federal Officials?

A. Not under the control of the Federal Officials at all. We were trying to telephone and get communications and figure out what we could do.

Q. Now—now when you left about 2:00 o'clock, you said 2:00 o'clock in the morning, any particular reason why you left at that time?

A. Well, sort of a personal reason. I had the flu that day, and I was utterly exhausted. And I knew I had to be there at 8:00 o'clock the next morning.

Q. You certainly had a fine cure for the flu that night. There was still, I believe you said, serious rioting going on?

A. That is correct.

Q. Did you leave some of your assisting personnel there in charge?

A. I did.

Q. I believe you stated there were about 160 people [fol. 1379] arrested that night. Do you know how many of those people were ever prosecuted?

A. No, I don't, it—except that it wasn't very many.

Q. Wasn't very many. Do you know how many had charges filed against them?

A. I don't know.

Q. You say there were about 25 students. Were any of them prosecuted through University channels?

A. Yes.

Q. How many of them?

A. About eight or ten.

Q. And how many of them were disciplined?

A. All of them were disciplined.

Q. To what extent?

A. Some were placed on disciplinary probation, which was just the strongest warning that could be given that if they ever did anything again, they would be gone.

Q. How long were they placed on this disciplinary probation?

about 1500, were mostly students, weren't they?

A. I am not at all sure that they were.

Q. And eight or ten were placed on probation and told not to do it again?

Q. A. These were turned over by the—out of those who were taken into custody the Justice Department turned over statements about them, and those where they were able to substantiate them, were.

Q. Now there is one thing I want to get straight in my mind. About 8:30, you met with the student counsellor, is that right?

A. With the president of the student body and his cabinet, and other student leaders.

Q. Cabinet. Pardon me.

Cabinet. That about 20 or 30—

The Court: Is that a good stopping point?

Mr. Address: As good as any.

(A 15-minute recess was had.)

Q. Dr. Love, you say it was about 8:30, when you met with the student cabinet?

A. Yes, sir.

Q. And that lasted about 20 or 30 minutes?

[fol. 1381] A. Something like that.

Q. And then was it the understanding that the members of the student cabinet were going to get out and mill in the crowd?

A. Some of the boys were going to go out. There was no agreement that everybody go. Some of them said they were going to go.

Q. Some of them were going to go out and mix and mingle with the crowd?

A. To try to get them to disperse.

Q. That would be about 9:00 o'clock?

A. Approximately that.

Q. And you testified that the intensity of the crowd increased right after 9:00 o'clock?

A. It was certainly increasing along through there.

Q. Of course you have no personal knowledge of what the leaders of the student council actually did when they got out there among the students, do you?

A. If you mean did I actually hear them, I would have to say I don't know.

Q. You don't know whether they actually calmed them or incited them?

A. Well—

Q. You were not there?

A. I wasn't there.

[fol. 1382] Q. But immediately after 9:00 o'clock, after this meeting broke up and the student leaders were going out among the crowd, you did testify there was an increase in the intensity of the crowd?

A. That's right.

Q. Now may I see the pictures in evidence. I believe they are up here.

In this Defendant's Exhibit 20, what were the buses doing on campus at 8:00 o'clock in the morning, Dr. Love?

A. I have no idea.

Q. You did see them there yourself when you first went on the campus at 8:00 o'clock?

A. I wasn't conscious of them. I don't know now whether the buses were there then or not.

Q. In other words you don't know whether at 8:00 o'clock those buses actually were there?

A. I don't know about the buses, no.

Q. Now, sir, Carrier Hall that is shown in Defendant's Exhibit 28, that is off at a fair distance from the Lyceum, isn't it? A quarter of the way around the circle?

A. Which isn't very far.

Q. Uh-huh, but it is quarter of the way around the circle?

A. Just about.

[fol. 1383] Q. There had been no Marshals there, had there?

A. Not as far as I know.

Q. By the way, had Chancellor Williams been out there on the campus with the students during this—the events of the night?

A. It is my understanding that he was. I didn't see him.

Q. Had he been out there in the afternoon about the time the Marshals came?

A. I don't know what time he came up, but he was out late during the evening some. He was on what you might call the back side of the crowd and I was in the front side, primarily at the Lyceum Building.

Q. Defendant's Exhibit 22, can you place approximately what time of day that was taken, please, sir?

A. Well, because of the size of the crowd I would say that it would have to be sometime after 5:00 o'clock, and of course, before dark. I wouldn't be able to pinpoint it exactly.

Q. Was there ever a rope or anything of that sort put up to separate the crowd from the Marshals, or the Highway Patrol?

A. Not to the best of my knowledge.

Q. The Highway Patrol is present in this picture, is it not? You see some of the Highway Patrolmen, don't you? [fol. 1384] A. Those (indicating) may be, right in there. I couldn't tell for sure.

Q. You mean there where there is sort of an open space between the Marshals and the crowd, that may be the Highway Patrol, is that right?

A. I am looking at the backs and I am thinking they may be.

Q. Were you present in the Lyceum Building after the tear gas was fired when there was quite a hassle between the Highway Patrol, Col. Birdsong, and the Marshals about their firing tear gas into the backs of the Highway Patrol?

Mr. Gooch: If the Court please, we object to that as an unfair question based on facts not shown to exist. Not proper cross examination.

The Court: Sustained.

Q. Was there an argument between the Highway Patrol's representative, Col. Birdsong, and the Marshals about the firing of the tear gas?

A. I did not hear it.

Q. You didn't hear it. I am going to hand you the Defendant's Exhibit 27, and ask you—that is a Marshal there in the picture, isn't it, a Deputy Marshal?

A. I suppose. It is difficult for me to tell on this one. This is one it is hard for me to tell just what it is.

[fol. 1385] Q. What has he got around his neck? Can you tell?

A. I just really don't know. I looked at this and I can't tell.

Q. Is that typical of the visibility and the identifiability of people there after dark that night?

A. The front of the Lyceum Building was very well lighted.

Q. Was there anything else in the circle area that was very well lighted after dark that night?

A. That was the most well lighted area, was in the front of the Lyceum. There were lights around the other buildings, but not as bright.

Q. I hand you Defendant's Exhibit 26, which also shows the lighted front of the Lyceum Building. Is that picture fairly typical of the visibility and the identifiability of people there that night?

A. I would say it is not. There was much more identifiability than this. This is a very dark print.

Q. More identifiability in the dark areas than they were in the light areas by the Lyceum?

A. Now what is that question?

Q. They are not identifiable—more identifiability in the dark areas than in the light areas around the Lyceum?

A. It was lighter than this picture would indicate out away from the Lyceum, is what I am trying to say.

[fol. 1386] Q. Have you seen these pictures before today?

A. Yes.

Q. When have you seen them?

A. Day before yesterday.

Q. Who is Black Starr? Do you know?

A. I don't know.

Q. You don't know who took these pictures?

A. No.

Q. Was there anybody taking pictures for the University out there that night?

A. I don't think there was on that particular night.

Q. Do you know whether the Public Relations Department section of the Department of Justice was taking any public relations pictures out there that night?

A. They weren't that I know about.

(Thereupon, a photograph was marked Plaintiff's Exhibit No. 17, for identification.)

By Mr. Address:

Q. Dr. Love, I hand you what has been marked for identification as Plaintiff's Exhibit 17, and ask you to take a look at that, please, sir. Now would you say that that is the way the Lyceum and the Marshals looked there in the afternoon of the 30th, before it got dark?

A. In the very early stages, yes.

Q. You would say that is a correct representation of [fol. 1387] the scene?

A. Oh, around in the neighborhood of 4:00 o'clock, or not too long thereafter.

Mr. Gooch: No objections.

Mr. Address: We offer in evidence the Plaintiff's Exhibit 17.

The Court: It is admitted.

By Mr. Address:

Q. The Plaintiff's Exhibit 17, was before the Highway Patrol got there, wasn't it?

A. I don't know. I would say probably not. The Highway Patrol was there very early.

Mr. Address: Mark this 18.

(Thereupon, a photograph was marked Plaintiff's Exhibit No. 18, for identification.)

By Mr. Address:

Q. I hand you what has been marked for identification as the Plaintiff's Exhibit 18, and ask you to take a look at that. Was that the way the Highway Patrol was employed in front of the Marshals, between the Marshals and the crowd?

A. I would say not after—not after a period of time. There were more than that, and they tended to be across the street.

Q. But in the early stages would you say that was a correct representation?

A. This—I just don't know about that.

[fol. 1388] Mr. Address: We offer in evidence the Plaintiff's Exhibit No. 18.

The Court: It is admitted.

By Mr. Address:

Q. Of course you would recognize Chancellor Williams if you saw him, would you not?

A. I believe I would.

•(Thereupon, a photograph was marked Plaintiff's Exhibit No. 19, for identification.)

By Mr. Address:

Q. I hand you Plaintiff's Exhibit 19, and ask you whether that is a picture of Chancellor Williams some place out there on the campus talking to some of the students, probably students, I would say?

A. Well, I don't know whether it is on the campus or not because there is nothing I can identify. That is Chancellor Williams talking to these—I suppose them to be students.

Q. You can't tell from the walk and the trees and so on whether that is in the circle?

A. No, sir, I just can't. I don't think there is enough there for me to tell.

Q. Could be but you are not sure?

A. Could be: I just don't know.

Mr. Gooch: If the Court please, I think it would be proper to try to fix some period of time as to the picture. [fol. 1389] The Court: If you are objecting to it I will sustain it.

Mr. Gooch: I will object to it unless they show what time it was.

By Mr. Address:

Q. Do you know—is this a daylight picture?

A. It is a daylight picture.

Q. And did you know whether Chancellor Williams was out there in the afternoon of the 30th, among the students at the same time you were?

A. I think he got out there later.

Q. But it was still daylight?

A. Yes.

Mr. Address: We re-offer it.

A. Yes, but I don't know, I don't know that it was even taken that day.

Mr. Address: We re-offer it.

The Court: Is the only objection as to time?

Mr. Gooch: Yes.

The Court: All right, I will overrule the objection and admit it.

Mr. Gooch: What I am talking about, the time the picture was taken, whether on that day or some other day, or what is the picture.

The Court: I thought you meant the time of that day. [fol. 1390] Mr. Gooch: No, sir, the time the picture was taken I don't know whether it was a week before or a week after.

The Court: All right. I will sustain the objection.

(Thereupon, a photograph was marked Plaintiff's Exhibit No. 20, for identification.)

By Mr. Address:

Q. Now Mr.—Dr. Love, I hand you what has been marked for identification as Plaintiff's Exhibit 20, and ask you whether that is a correct representation of the way the Marshals appeared there on the steps of the Lyceum, on the afternoon of the 30th of September?

A. That is the way they appeared—at first I wasn't sure that was the steps of the Lyceum, but I would say that it is now, yes.

Mr. Gooch: No objection.

Mr. Address: We offer in evidence Defendant's Exhibit 20.

The Court: You mean Plaintiff's Exhibit.

Mr. Address: Yes, Plaintiff's Exhibit 20.

By Mr. Address:

Q. Now as far as those two pictures taken during darkness were concerned, Dr. Love, you said you couldn't estimate what time of night they were taken, but it was after dark and before the following morning?

[fol. 1391] A. Yes.

Q. Sometime during the night of the 30th of September—1st of October?

A. Yes.

Q. Do you know who took those pictures?

A. No, I do not.

Q. How long did it take the tear gas to clear off of the circle?

A. Days and days and days.

Q. Did it remain as a cloud that interfered with visibility, or did it just get to the point you could smell it as you passed through?

A. Just smell it. It cleared off as far as the cloud was concerned very quickly.

Q. Still there the following morning?

A. No, the cloud, as I recall it was gone, but certainly the smell was there.

Q. Now the Lyceum Building, tell me, is that the center—the headquarters of the whole university?

A. I would say it is, yes.

Q. It have any particular meaning to the student body, traditional, anything of that sort?

A. It is sort of a symbol of the University.

Q. And of the State?

A. I wouldn't go that far.

[fol. 1392] Q. What is the name by which the football team of the students of Ole Miss is known, just like we have our Texas Longhorns, what is the name by which Ole Miss is known?

A. We have the Ole Miss Rebels.

Q. Known as the Ole Miss Rebels?

A. Yes, sir.

Mr. Address: I believe that is all.

Mr. Gooch: No further questions.

The Court: I am going to release Dr. Love.

Mr. Address: Do you have any further questions?

Mr. Gooch: No.

Mr. Address: I do have one more.

By Mr. Address:

Q. Dr. Love, did you know a newspaperman named Van Savell?

A. No, I did not.

Q. Do you now?

A. No, I do not.

Q. Never made his acquaintance at all?

A. Never.

Mr. Address: That is all.

Mr. Gooch: No further questions, thank you, Dean.

The Court: All right. I will release you.

JOHN E. KING, called as a witness by the Defendant, having been first duly sworn, testified as follows, to-wit:

[fol. 1393]

Direct examination.

By Mr. Gooch:

Q. Please state your name to the Court and jury.

A. My name is John Edmond King, Jr.

Q. Where do you live?

A. I live in West Point, Mississippi; known as Jack King.

Q. How old are you Mr. King?

A. I will be 42, August 6th.

Q. Do you have an occupation?

A. Yes, sir.

Q. What is it, please, sir?

A. I am manager of two radio stations, WROB in West Point, Mississippi, and WAMY in Amory, Mississippi.

Q. Are those towns close together?

A. Yes, sir, about 39 miles apart.

Q. Where is West Point, Mississippi from Oxford?

A. It is approximately 90 miles southeast.

Q. How long have you been manager of these radio stations?

A. I have worked for them—WROB since it went on the air in '47. I have been manager since—I was made manager in 1950. I was called back into service two years, and resumed managership in 1952.

Q. Do you have an educational background?

[fol. 1394] A. Yes, sir.

Q. What is it, please, sir?

A. I am a graduate of the Electrical Engineering School at Mississippi State.

Q. All right, now, what do you do—what are your duties generally, or specifically, in these radio stations?

A. I am station manager of WROB, in that I direct all its operations. I am general manager of WAMY. I have a local manager on the scene, but I am over him.

Q. Do you do any news gathering yourself?

A. In the course of normal operations I have done and continue to do all phases of broadcast. I started out there as an announcer. I have a First Class radio and telephone license with the FCC. I am the chief engineer.

On special events coverage, I have done quite a bit during my time, though basically I am not a reporter.

Q. How long have you lived in West Point?

A. Since I was six years old.

Q. Do you belong to any organizations there?

A. Yes, sir, I am a member of and Past President of the local Rotary Club. I am a member of the local Episcopal Church, and Past Senior Warden.

Outside of local organizations, I am a member of the Mississippi Broadcasting Association, and was Secretary for this past year.

[fol. 1395] Q. All right, sir, directing your attention to September 30, 1962, do you recall that date in your mind?

A. Oh, yes, sir.

Q. Do you know where you were on that date?

A. Yes, sir.

Q. Would you please give us a chronological account of your activities, say, beginning at noon, September 30, 1962.

A. Of course, most of the time leading up to that, as well as I recall, I first went to the campus at the University of Mississippi on the day that they were expecting the confrontation between the Highway Patrol and the Federal Marshals.

Q. Would that have been—

A. Which never did come off.

This was, I believe, the previous day.

Q. All right.

A. When that did not come off I went back to West Point, Mississippi, and got some additional equipment which I thought I might need, and returned to the campus of the University.

It is very difficult to tell exactly what time that I did get on the campus. I have been told—

Mr. Address: Now we will object.

Mr. Gooch: Don't say what you have been told.

The Court: Sustained.

[fol. 1396] A. I am sorry.

Q. Just tell the best you can what you did on September 30th. Did you go to the campus?

A. Yes.

Q. Do you have any estimate of about what time you arrived there, based on the sequence of events?

A. Based on the sequence of events, I would say that I arrived at the Oxford Radio Station about 7:00 o'clock.

[fol. 1397] Q. All right.

A. And must have gotten on the campus, oh, sometime between 7:30 and 7:45 p. m.

Q. All right. What did you do when you first went on the campus, Mr. King?

A. I drove on the campus and went to what I believe they call University Circle, which is where the Lyceum Building is at one end of it. I drove around the right hand part of the Circle and got as close as I could with my automobile and parked it on the Circle itself, and I estimate that I was able to drive somewhere between seventy-five and one hundred yards within to—within that distance of the Lyceum Building, and parked my car.

I left my car—

Q. Did you see anything significant when you got there?

A. Of course, the—at that point, the focal point of everything that was taking place was the Lyceum Building.

Q. What did you see there, Mr. King?

A. And you could even see from my automobile the fact that the Marshals were ringing it and that a large crowd had gathered in front of them.

Q. Did you go into that crowd?

A. I left my car and followed the road. At that time the Federal Marshals were ringing the Lyceum Building itself.
[fol. 1398] The students were—I say "students"—the people that were there. At that time most of the gates were closed and it was probably students on hand.

But the crowd was separated from the Marshals by almost the width of the street itself. But it did leave a cleared area for the whole length of the Lyceum Building, between the Marshals and the crowd.

Q. All right.

A. So, I traveled the length of the Lyceum Building between the two groups.

At the time I went through there, the Highway Patrol was in position, keeping the two separated and was in process of trying to move the crowd back out of the street and up onto the curb itself.

But I was able to make my way the length of the Lyceum Building between the two groups.

Q. Did you observe any activity there between the group out on the grass and the Marshals?

A. I observed students using a can of spray paint on one of the Army trucks which had brought the Marshals to the scene.

There was a great deal of shouting going on. I did not see any violence, I did not see anything being thrown or any physical contact between the two groups.

Q. All right. Did you proceed on, then, in some direction? [fol. 1399]. A. Yes, I continued on around the Circle to the next building, past the Lyceum Building, which I understand is the Chemistry Building, and I went into this building, going in the front door, looking for a telephone so that I could call back to my radio station and give them a report of what I had seen.

Q. The Chemistry Building is south of the Lyceum Building, is it not?

A. It continues—I started around the right hand side of the Circle and as you face the Lyceum Building, the Chemistry Building is to the left of it.

Q. All right. Did you go in the Chemistry Building?

A. Yes, sir.

Q. For what purpose?

A. I was looking for a telephone to call back to my radio station.

Q. Were you successful in getting a 'phone call through?

A. No, sir, there was a telephone in that building but another reporter was using it and indicated that he had no intentions of giving it up.

Q. All right. How long did you remain in the Chemistry Building?

A. Just guessing, I would say maybe fifteen minutes. [fol. 1400] The only reason that I—I continued to look to see if there was another telephone. I found none. And it was while I was in this building that the tear gas barrage was fired by the Federal Marshals.

Q. Did you actually see the barrage fired?

A. No, sir.

Q. All right. After you were unsuccessful in your 'phone call, where did you go then?

A. I continued on around, I went out the back entrance of the Chemistry Building, continuing in the same direction around the left hand side of the Circle and came to the next building, which I understand is the Carrier Building, or the Engineering Building.

Q. That building, I believe, is almost due south of about the center of the Circle, is that correct?

A. Yes, sir, it's to the left of the center of the Circle, yes, sir.

Q. All right. Then, did you enter that building?

A. Yes, sir.

Q. And what did you do there?

A. Again I entered it by a back entrance. In the hallway I met some gentleman who evidently was on the faculty and asked him if he could tell me where I could get a telephone and he let me in one of the offices on the front side of the building.

[fol. 1401] Q. All right. Were you able to use the telephone then?

A. Yes, there was a telephone there. I was able to get an operator and call back my initial report to my radio station from that point.

Q. Do you have any estimate of how long you were there at that time?

A. Again, here, I would guess in the neighborhood of fifteen to twenty minutes. It took me some few minutes to get my telephone circuits, to make my call, make my report.

The room in which I was in was on the front side of the building and I stayed in that room and was able to look out the window and observe some of the action that was taking place.

Q. What did you see as you looked out the window there, Mr. King?

A. At this time during this period, it seems that there was intermittent tear gas barrage—barrages which were being fired. Each time it was done, the crowd would move back or with the gas and getting out of range and as the wind would blow the gas back in toward the Marshals, then the crowds would generally come in behind it and so there was this ebb and flow of people as the gas was released by the Marshals.

[fol. 1402] Q. Did you see any activity on the part of the crowd toward the Marshals?

A. Only the fact that they would follow in behind the tear gas. At this point, I don't believe that any of them were able to get close enough for the throwing of objects—which took place later—because the tear gas was quite thick.

Q. Did you see any objects in their hands?

A. Not at this time, no, sir.

Q. All right. After you had completed your call in the Carrier Building, what did you do then?

A. It had been expected that there would be tear gas used and so I had brought with me a gas mask and I was at that time, thought it would be a good idea to get back to my car, if I could, and get the gas mask because tear gas was very concentrated at that point.

Q. All right, sir.

A. So, I again went out the back of the Carrier Building and continued around behind—

Q. Could you step down here to this large, enlarged map on the wall, which is Plaintiff's Exhibit 11, and show the Jury the route you took when you left the area of the Carrier Hall?

A. I came out the Carrier Building, I believe, at this entrance here (indicating), continued around behind the [fol. 1403] Chemistry Building, continued behind the Lyceum Building.

Q. May I stop you there for a moment? Had you felt the sensation of any gas at the time you—

A. I had been quite severely gassed, I guess you would call it. Of course, no personal damage, but certainly plenty of tears, all the sensation—

Q. Trace your movement from the Carrier Building?

A. And continued on past, from the Carrier Building, behind the Chemistry Building, circled the Lyceum Building and tried to—my car was parked along here (indicating), and I tried to come between these two buildings, reaching my automobile.

Now, the wind, as I recall, was generally blowing at this direction and, of course, the greatest concentration of tear gas seemed to be in this area (indicating), and it was impossible to reach my car. I could not get through the tear gas.

I went as far as I could and finally had to go back.

Getting out of the tear gas, I continued to go with the wind at that time until I wound up here at the Student Union Building.

Q. Now, the Student Union Building on that map is west and a little bit north of the centerline of the Circle; sir, is that correct?

[fol. 1404] A. Yes, sir.

Q. All right. Did you go in the Student Union Building?

A. Yes, sir, I went in the Student Union Building and stayed there some few minutes. I cannot estimate—it must have been fifteen minutes or possibly longer. I tried to use a telephone there, but at that point I never could raise an

operator and so I did not make a call, but I was in there a long enough period to at least try.

Q. All right. After you left the—did you leave the Student Union Building?

A. Yes.

Q. And where did you go then?

A. At that time, since the tear gas was blowing at this general direction (indicating), I thought it was—would be best to get upwind of it, hoping that as the tear gas would move, that eventually I could get back to my car.

And so as I came out of the Student Union Building I retraced basically the same route I had taken getting there and came behind the Chemistry Building, behind Carrier Hall and eventually wound up at this end of the Circle (indicating).

Q. "This end of the Circle," are you referring now to the monument on the east end of the Circle?

A. On the east end of the Circle, yes, sir.

[fol. 1405] Q. Take your sheet, Mr. King. What did you observe as you approached the monument there on the east end of the Circle?

A. The first thing that I observed that caught my attention was a man appealing to General Walker. I later learned that it was Duncan Gray. I did not know him personally at the time.

And he was making an appeal to General Walker to stop—he says, "General Walker," he says, "They will listen to you. Please make them stop what they are doing."

And in reply to this, General Walker turned to him and said, "I am sad for you. Go make your spiel somewhere else."

Q. Did you recognize General Walker at that time?

A. Yes, sir.

Q. Had you seen him before?

A. I had seen him on television, I had seen pictures.

Q. All right. Now, have you detailed as best you can the dissertation between Rev. Duncan Gray and General Walker at that time?

A. There was additional conversation between the two. It was taking place at the time I walked up. And evidently it seems that I must have gotten there near the end of it because this last comment by General Walker, I believe, [fol. 1406] was the last comment that I heard. With that, he turned and walked away.

Q. Where did he go?

A. He walked off. I could not tell you what direction it was. He walked off in some direction in the same general area, I mean, he did not walk a long ways off. He just moved off from the point at which Duncan Gray was.

Q. Was anybody around him at that time?

A. Yes, sir, there were groups that were gathering whenever he would be recognized. It would be those who would come up to where he was standing and at this point he was watching the action which was between us and the Lyceum Building.

Those who were gathering around him were telling him stories of injuries that had been reported taking place, Highway Patrolmen that had been gassed and struck by the tear gas shells.

It was reported that there was a girl that had been severely gassed and they were telling him about the various things that had been taking place.

Q. All right, what did he do then?

A. He listened, listened very quietly to what they were saying and finally he turned to them and says, "You are doing all right." He said, "Riot, riot. You are getting news [fol. 1407] all over the country." He says, "Now you have got casualties," sir.

Q. All right. Did you see him do anything thereafter?

A. Several of them who were in the vicinity called to him to make a speech and he first said, "This is not the time nor the place," but there were continued calls for him to make a speech and finally he agreed to do so.

A. All right. Did you listen to his speech or any portion of it?

A. Yes, sir. I was there during the duration of his

speech. I moved with him. I recognized the importance of his being there and as he moved in these different points, I stayed very close. I was never more than just a very few feet from him.

Q. Did you know at that time that he was a former Major General of the United States?

A. Yes, sir.

Q. All right. Now, did he get—did he make a speech?

A. Yes, sir.

Q. And from what position?

A. Standing at the base of the statue. There was a slightly raised portion of the—as well as I remember, there was a curbing built around the statue and it was filled, [fol. 1408] giving him a slightly raised position to the rest of the crowd.

Q. Did you listen to his speech?

A. Yes, sir.

Q. Are you able to recollect now what you heard him say in that speech at that time?

A. Yes, sir, I took notes on his speech. I had a small note pad which I was able to hold on the side of my leg and I was writing on it without actually looking at what I was writing.

I was not holding a pad up in front of me writing, but I was taking down key phrases, as best I could, during his speech.

Tuesday following, I took these notes and sat down and typed up a compilation of the content of my notes, plus the bare memories that I still had of what took place, and I do have his speech typed up as best I can.

Q. Do you have those notes with you that you took that night?

A. Yes, sir.

Q. Would you produce them, please, sir?

You have made available to me some slips of paper that look about two by, say, three inches?

A. Approximately, yes, sir.

Q. Or maybe one and three quarters. With some writing

[fol. 1409] on it. And there are a series of these notes, is that correct?

A. Yes, sir, those are the actual notes that I took that night.

Q. Were these notes that you took that night, were they actually taken by you at the time you were listening to General Walker's speech on the monument?

A. At the actual time he was talking, yes, sir.

Q. Then later on, did you type up those notes into the form of a statement?

A. Yes, sir.

Q. Do you know who has seen those notes and that statement since the time you typed them up?

A. Yes, sir, I have made a copy of these notes for a Mr. Sullivan. I have his full name here somewhere, I believe. Mr. Sullivan is the private investigator who identified himself to me—

Mr. Watts: Just a minute, if Your Honor please. I object to hearsay statements between this man and Sullivan.

The Witness: I am just stating that I gave—

The Court: Just a minute. Don't interrupt when there are objections made.

The Witness: I'm sorry.

The Court: I will sustain it.

[fol. 1410] By Mr. Gooch:

Q. I want to ask this question, and don't answer it until the Court has ruled:

Did Mr. Sullivan identify himself to you—

Mr. Watts: Just a minute, Mr. Gooch. Come forward.

The Court: Wait, let him finish his question.

Mr. Andress: The question is going to be pretty identifiable as hearsay.

Mr. Watts: If the question is a statement, the war is over anyway. Mr. Gooch will be testifying.

(Conference at the Bench.)

By Mr. Gooch:

Q. All right. You stated that you have made these notes available to a Mr. Sullivan?

A. Yes, sir.

Q. Anybody else?

A. I have made these notes available to Mr. Lynn Smith, who is an FBI investigator.

I have made these notes available to Mr. Fred Smith, an attorney from Ripley, Mississippi.

I have made these notes available to Mr. Tom Tubb, who is an attorney in West Point, is on the Board of Trustees of the Institutions of Higher Learning in Mississippi, or was at this time.

And I have made these notes available to Mr. W. F. Miner, a representative of the Times Picayune who is in [fol. 1411] Jackson, Mississippi.

Q. All right. Now, using your notes to refresh your memory, can you tell the Court and Jury what you heard General Walker say on the monument that night?

Mr. Address: If the Court please, we would like to see the notes that he's using to refresh his memory before he testifies from them.

The Court: He isn't offering them.

Mr. Address: No, sir, but if he uses them to refresh his memory, we are entitled to look at them before he uses them for that purpose.

The Court: I think you might be—

Mr. Gooch: Have a look.

The Court: Do you have any objection to them looking at the entire file?

Mr. Gooch: Not at all.

The Court: These notes.

[fol. 1412] Q. Thank you. I don't remember what the last question was. I believe I asked if he would take his notes and refresh his memory and tell as to what he heard

General Walker say on the monument on the night of September 30th, 1962.

I believe that is the question. Do you understand the question?

Mr. Address: If the Court please, he is not taking his notes, he is taking a letter which he wrote some 60 days or more later.

A. I beg your pardon.

The Court: Just a minute. Let him make his objection.

Mr. Address: The yellow pages are a letter written December 10, 1962. They are not his type-up notes he made two days later, but a self-serving letter, and we object to his using that letter written 70 days after the occurrence to refresh his memory. The notes made at the time, we have no objections to, but we do object to his using the letter.

The Court: Overruled.

Mr. Address: Note our exception.

The Court: You may proceed to answer the question.

A. What I am reading is a letter, we have photostatic copies. Each time I would write—

[fol. 1413] Mr. Address: Now—

A. —I am sorry. I will just answer the question.

By Mr. Gooch:

Q. Take your notes and testify if you can as to what you heard General Walker say on the monument.

A. From the notes that I have?

Q. Yes.

A. General Walker state, "I want to compliment you on your protest. You have a right under the Constitution. I did not come to see violence but any blood you see tonight is on the hands of the Federal Government and the Agencies thereof."

Mr. Address: If the Court please, he is not testifying,

he is reading a letter not in evidence. The letter, if it is admissible in evidence, would be the best evidence. He was asked to testify, using notes to refresh his memory, not to read a letter that he wrote sometime later.

The Court: Overruled.

Mr. Address: Thank you. Note our exception.

The Court: You may proceed.

A. He continued, "I have just been informed by a representative of the Governor that the fact that these people are on the campus is due to a sell-out; that there were definite orders that the Marshals not be allowed on the campus, but were allowed on the order of a certain official." [fol.1414]. In response to cries of "Who sold us out, General?" General Walker said, "Birdsong."

The General went on to say, "I am only telling you what has been reported by an official representative of the Governor."

General Walker then said, "Do not expect violence, but you can continue to protest until Meredith is not admitted. This is a long route to Cuba."

At this point the Reverend Duncan Gray again approached the General. Then this is his speech, and said, "General, stop it, you can."

And someone moved in and Duncan Gray was almost pulled into the crowd. Someone moved in from the opposite side of the crowd from where I was standing and escorted Duncan Gray off to one side.

At this time it is not in my notes but—

Mr. Address: He has answered the question, Your Honor. There is no question before the house.

By Mr. Gooch:

Q. Go forward, please.

Mr. Address: Wait.

A. Continuing—

Mr. Address: Wait. "Go forward, please, sir," is not proper examination of his own witness, and we object to it.

If he wants to ask a specific question—

[fol. 1415] The Court: Then did General Walker say anything else on the monument?

The Witness: Yes, sir.

The Court: You may relate what he said.

A. General Walker made the statement that, to the best of my recollection, that, "That man is an Episcopalian priest. I am a member of the Episcopalian Church and I am ashamed of it."

I do not have that in my notes.

By Mr. Gooch:

Q. All right, now, does that conclude, as far as you recollect—

A. No, sir.

Q. Go ahead. Or maybe that is wrong. Did he say anything else?

A. General Walker continued, "You can continue protesting as you are. There is no stopping point. There are many heading toward Oxford, both Mississippians and non-Mississippians, to help you."

This was the end of his speech.

Q. At the conclusion of his speech, what did you do?

A. I went looking for a telephone. I realized that I had a story of great interest, and so I immediately left the area to try to find a telephone, to try to call in another report.

Q. Do you know where you went looking for a phone?

[fol. 1416] A. I have tried to retrace myself exactly, not until recently, and I cannot state positively, but to the best of my recollection I believe that I retraced my steps behind the Carrier Building, and behind the Engineering Building, again looking—and eventually was able to work my way to my car and went to the Oxford Radio Station in order to get a telephone.

Q. In other words your best recollection is that you came back around the Carrier Building, the Engineering Building, behind the Lyceum Building, and back around to the north side of the circle for your car?

A. I believe so.

Q. Did you get a telephone call through on the campus, or did you go to some other place?

A. I had—I had to leave the campus and go to the local radio station in Oxford to get a telephone.

Q. Was that the extent of your—did you return to the campus that night?

A. Yes, sir.

Q. Do you recall about what time?

A. Some time after 10:00 o'clock.

Q. Did you see General Walker any more that night?

A. No, sir.

Mr. Gooch: I believe that is all for the present.

Cross examination.

[fol. 1417] By Mr. Address:

Q. Mr. King, where is the Oxford Radio Station located?

A. I don't recall the number of the highway, but it is on the highway that runs east from Oxford.

Q. Which side of the town of Oxford is it? The University side or the other side?

A. Actually there is no residential area that you—the radio station is located on the edge of town, immediately on the highway.

Q. On the highway or bypass?

A. It is on the highway. I have not been to Oxford recently, you understand. There may be a bypass. It is on the highway from Oxford to Pontotoc.

Q. And what time did you arrive there?

A. I cannot say exactly. It was—I believe shortly before 10:00 o'clock, but that is just a guess, sir.

Q. Now of course in your business where there is split-second timing, you are accustomed to keeping your eye pretty closely on your watch, are you?

A. I don't own a watch.

Q. You don't own a watch?

A. No, sir.

Q. How do you keep your programs from running over?

A. We have clocks in the station, and we have to watch them very closely, sir.

[fol. 1418] Q. You don't own a watch?

A. No, sir.

Q. Now as I understand it during the interval of time that you went into the Chemistry Building to make the first telephone call was when the first salvo of tear gas took place?

A. Yes, sir.

Q. And when you had, just immediately before going into the Chemistry Building, walked down the area between the Marshals and the Highway Patrol, you saw no violence, you saw nothing thrown and you saw no physical contact between the students and the Marshals?

A. No, sir.

Q. But at that time you were expecting tear gas to be used?

A. I was aware of the possibility that tear gas might be used. Even on the previous day when I was there all of the Highway Patrolmen did have gas masks and I did not know on which side it might be used, but I expected the possibility enough that I carried a gas mask with me.

Q. Did the Highway Patrol have gas masks here on the afternoon of the 30th?

A. Yes, sir.

Q. Did they use gas masks?

A. No, sir.

[fol. 1419] Q. And at the time that you passed through there the Highway Patrol was engaged in moving the crowd back part of the way from the Marshals?

A. Yes, sir.

Q. What was the atmosphere, would you say, of the students as they were being moved back? More of a pep rally type thing, or Halloween type thing?

A. The atmosphere was quite charged, intense. They were responding to the Highway Patrol. The Highway Patrol was controlling them at that point. They were moving back on orders.

Q. The Highway Patrol was moving them back all right, and was controlling the group when you went into the Chemistry Building?

A. Yes, sir.

Q. By the time you came out there had been this salvo of tear gas?

A. Yes.

Q. Which of course carried out what you had expected?

A. It carried out the possibility that I had expected.

Q. Now I am quite interested in the notes, Mr. King. How did you take these notes?

A. Holding the pad on the side of my thigh, sir.

Q. I wonder if you would mind standing up there and playing like this was the pad, and show us—is that about [fol. 1420] the size of it.

A. Approximately, yes. Now as I took my notes, I was holding my pad approximately like this, sir, and writing. (Demonstrating)

Q. And you were just writing without looking?

A. Yes.

Q. And it was a fountain pen, wasn't it?

A. Yes.

Q. Ball point pen?

A. Yes, sir.

Q. You mind if I take this staple out of these so I can hand you these one by one?

A. All right, sir, if you communicate some way of keeping order.

Q. Yes, sir, I will put a paper clip on them and put them up here in plain view, just as quick as I get this out, where everybody can see them.

Now this first page, what does that say?

A. "I am sad for you. Go make your spiel somewhere else."

Q. What are the initials down there at the bottom?

A. Evidently a radio station. I am not sure. It means nothing to me.

Q. And what have you got on the back here?

A. A map, I believe, of the place where I was staying [fol. 1421] that night. Someone was telling me how I could find a place to stay.

Q. So you started taking notes then before the General started making the speech from the monument?

A. Now that map, I do not believe, was made before that. That map was made later. It could have been added and I didn't know where I was going to stay until later that night. And evidently I used the back page of that pad later.

Q. I did understand you to say when the General said, "I am sad for you, go make your spiel somewhere else," that was sometime before he got up on the monument?

That was when he was down there talking to Gray?

A. Yes.

Q. So you started taking notes right then?

A. Yes, sir.

Q. This note two, was taken there on the side of your leg?

A. No, sir.

Q. Oh, it wasn't?

A. The letters down at the bottom, I don't know when that was mentioned.

Q. What is this second page?

A. "It says, "You are doing all right."

Q. Does it say, "You are," or "You doing"?

A. "You are doing all right." As in my statement— [fol. 1422] Q. No, no, I am just interested in this.

A. In other words, now—may I finish this now?

Now these notes admittedly are key phrases. The statement which read was typed up two days later.

Q. Well, the statement you read was typed up on December 19th?

A. The letter—the letter was. The statement that I originally typed was two days later.

Q. Have you got that?

A. Yes, sir.

Q. Have you got it with you?

A. Yes, sir.

Q. Let's see the one you typed two days later.

A. I am not sure that I have it with me, sir.

It is not dated, sir.

Q. Not dated. Neither are these notes, are they?

A. No, sir.

Q. So we have nothing except your memory and your statement that any time prior to December 10th, these had ever actually been made or typed up?

A. Yes, sir.

Q. Without—all right, now, you can put those papers back in your pocket.

Without putting anything else in except what is right here on this paper, what does that say, that key phrase? [fol. 1423] That is what I want, the key phrase.

PLAINTIFF'S EXHIBIT No. 21 READ INTO RECORD

A. "You are doing all right. Riot, riot. You are getting news all over the country. You got casualties."

Q. This is on the third line?

A. R-i-o-t. R-i-o-t.

Q. Yes, sir.

A. Yes, sir.

Q. You don't read that as "not," and "no"?

A. No, sir.

Q. All right, after this word that is supposed to be "country," what does it say there?

A. "You got casualties."

Q. Now the third page of this says what?

A. "I want to compliment you all on your protest."

Q. And the fourth page it says what?

A. "You have a right, did not come to see violence."

Q. And—

A. "Any blood you see tonight is on the hands of the Federal Government."

Q. What is that "w-d-," and "g"?

A. Yes, sir.

Q. Now these are all here together and there is no distinction between when these occurred. And this one says?

A. "And the Agencies thereof." "I have just been informed by representatives of Governor of the fact that [fol. 1424] these people are on campus due to sell-out. Definite orders that Marshals not be allowed on campus; at order of certain officials. Birdsong. I am only telling you what has been reported by an official representative of Governor. Do not expect violence and protest until Meredith not admitted. This is a long route to Cuba. Sorry an Episcopal Church. Duncan Gray says 'Stop it, you can'. Escorted off. You can continue protesting as you are. There is no stopping point. Many headed toward Oxford."

Q. And those are the notes which you say you took that night?

A. Yes, sir.

Mr. Address: We would like as part of the cross examination of this witness, we would like to have these notes offered in evidence, Your Honor.

Mr. Gooch: I have no objection.

The Court: Plaintiff's 21. Mark them all as one exhibit.

Mr. Address: Yes, sir, I have stapled them together again, Your Honor.

(Thereupon, said notes were marked Plaintiff's Exhibit No. 21, for identification.)

The Court: I will admit Plaintiff's 21, and recess until 2:00 o'clock.

[fol. 1425] (Thereupon, at 11:55 a.m., a recess was taken until 2:00 o'clock, p.m., of the same day.)

[fol. 1426]

AFTERNOON SESSION

2:00 P. M.

JOHN EDMUND KING, resumed his testimony on cross examination as follows:

Cross examination—(Continued).

By Mr. Address:

Q. Mr. King, you stated that right after General Walker had made his speech up there on the statue, that you realized that you had a story of great interest and you then went looking for a telephone?

A. Yes, sir.

Q. And that what you did was to reverse your procedure and go from the monument back around Carrier Hall and behind the Lyceum and back behind Peabody Hall until you could get to your car, is that right?

A. Sir, I believe that I stated I did not immediately intend to go back to my car. I went looking for a telephone. I did not make notes of this. I have not—did not make notes at any time in—when it took place and I cannot exactly say, say exactly what route I took.

I know that I did not make a telephone call anywhere on the campus, that I had to go back to the radio station to make it.

Now, I cannot in my mind any longer retrace my road [fol. 1427] to my automobile.

Q. Well, you didn't go riot across the Circle to your car, did you?

A. No, sir.

Q. And the last time you had used the telephone—well, the second time—the first time you used the telephone had been in Carrier Hall, hadn't it?

A. Yes, sir.

Q. Did you go riot back to Carrier Hall then?

• A. I cannot say, sir. It's possible I did, but I cannot state a fact, that I did.

Q. Well, when you went into Carrier Hall and used the telephone—no—you didn't use the telephone in the Student Union, did you?

A. No, sir, I tried to but I never got a call through.

Q. All right. Now, when you went into the Chemistry Building and made your first telephone call, was there any particular news or were you just saying that the Marshals were on the campus and the Patrol—

A. Sir, basically, it was a color story, in which I was reporting what I had observed, the scene as it was with the Marshals, where they were, where the crowd was, what they were doing.

And then, of course, at that time, the fact that tear gas [fol. 1428] had been fired. I had—

Q. That was fired while you were in the building, wasn't it?

A. Now, that was fired while I was in the first building, in the Chemistry Building.

Q. Yes.

A. My call—I did not get my call in until I got to the Carrier Building and so the tear gas had already been fired before I made my telephone call.

Q. Oh, well, then, you went into the Chemistry Building?

A. Looking for a telephone.

Q. Looking for a telephone. You were there about fifteen minutes but you didn't use the telephone?

A. No, sir.

Q. And it was while you were in there that the gas was fired?

A. Yes, sir.

Q. Then you came out of there and realized the gas had been fired, or you saw it from inside; you went out the rear of that building and into Carrier from the back?

A. Yes, sir, I—I heard the explosions of the tear gas being fired. Some people started coming into the building

where I was, and, of course, some of them had been caught [fol. 1429] in tear gas and they were making the statements, you know, that the tear gas barrage had been fired, and so I knew that it had been fired.

Q. And then that was what you reported when you went into Carrier Hall and used the telephone?

A. Yes, sir.

Q. The background story and the firing of the tear gas?

A. Yes, sir.

Q. There was nothing else of outstanding importance?

A. No, sir, I had not been there very long at the time and that was all there was to report, as far as I knew.

Q. Then after you had been there some fifteen or twenty minutes, you went around by the Student Union Building. How long did it take you to get there from Carrier?

A. It's very difficult to say, sir.

Q. Ten or fifteen minutes?

A. Possibly.

Q. Then you stayed there about fifteen minutes and couldn't get to your car, stayed there in the Student Union for about fifteen minutes?

A. Yes, sir.

Q. In the meantime, had there been anything in particular newsworthy that occurred?

A. I had just rumors, you could—everyone, of course, was talking about it. And students would be telling where they were when the tear gas went off, that they had been gassed, that they had seen people gassed, and, of course, there were a million stories, as far as conversations.

Q. There wasn't anything that you knew at that particular time that made it particularly necessary to get to a 'phone, though, so you started back on around?

A. No, sir, I attempted—I mean, of course, there were—on something like that, if you could get a telephone every five minutes, you would have something new to report, but, of course, it was nothing urgent at that point.

Q. Then you went back around all the buildings, around

the Lyceum, Carrier Hall, and so on, until you came to the monument and you went to the south to do that, or from the Student Union you go to the north?

A. I went back around the Chemistry, to Carrier, to the monument.

Q. Around the south side of the Circle, then?

A. Yes, sir. I assume so. I am not sure of north and south on the campus.

Q. And it was right after that that you saw General [fol. 1431] Walker walking around and talking to Gray and that you heard him say, "Riot, riot, you have got news all over," and so on?

A. Yes, sir.

Q. That was before he got up on the monument?

A. Yes, sir.

Q. And in the course of—did you hear him and see him talking with various groups of students?

A. Yes, sir, from the time I saw him until the completion of his speech, I stayed very close.

Q. And did you ever hear him say, "Rite, rite (phonetic)" to anybody else?

A. At the time he said it, he was talking to individuals who were nearby to him and telling him the stories. That's the only time I heard him make that statement.

Q. What did they do?

A. Oh, nothing in particular. It was soon after that, almost immediately after that that they started calling for a speech, as I recall.

Q. But this group that he was talking with at that time just stayed around there with him or just milled around like they had been doing?

A. Oh, yes, sir, the group at that time was observing what was going on.

[fol. 1432] Q. And they were just milling around?

A. Yes, sir.

Q. And then after he made this talk on the monument, why, that was the story that you realized was of great interest, that you went to 'phone in?

A. Yes, sir.

Q. And was that the only story of great interest that you had to 'phone in at that particular time?

A. With the exception of a rehash of what I had already reported. That, along with the overall picture of the scene as it was taking place.

Q. Uh-huh. And then because the telephone communications were pretty bad, that's when you cut back around or, at any rate, got back to your car, regardless of which way you went—

A. Yes.

Q. —you got back to your car, drove it off the campus?

A. Yes, sir.

Q. Your car hadn't been damaged?

A. No, sir.

Q. It was standing right there on the Circle Drive, by, in front of Peabody Hall?

A. Yes, sir.

Q. And do you have any recollection of whether you [fol. 1433] drove in front of the Lyceum or whether you drove out—

A. No, sir, I wouldn't have any. It would have been impossible to have driven in front. I turned around and went back out the way that I had come in.

Q. You turned around there in the street?

A. Yes, sir.

Q. You didn't have any trouble turning around?

A. I turned around on the lawn itself. Actually, my car was not parked on the pavement but there was a rolling curb there and my car was right up on the edge of the street there.

Q. Didn't have any trouble turning around, then?

A. No, sir.

Q. And went on off to the radio station and that's the last you know of the circumstances?

A. Concerning this, yes, sir. I was on the campus again but it was, of course, it was an hour or so later and as far as General Walker's presence there, I know nothing more.

Q. Were you in on the Circle there too?

A. Later that evening?

Q. Yes.

A. Oh, yes.

Q. And the same thing still going on?

A. Yes, sir.

[fol. 1434] Mr. Address: I think that's all. Wait a minute. Mr. King, did you—do you know what kind of stories your radio stations ran in connection with your reports?

The Witness: No, sir, I don't. Practically everything that I called back was tape recorded and what they used of the calls I made—several radio stations were exchanging stories, what they got from other stations, what we got from various sources, I don't know because, I mean—

By Mr. Address:

Q. In other words, the way things were going on that night—

A. I know less about what was actually broadcast during that particular time than most of my listeners because when I came back, I found out and had people tell me the coverage that we had, but I was not at the station and I cannot vouch for what they did.

Q. You didn't have a portable radio with you?

A. In my car I had a tape recorder, which I was able to use later in the evening; I mean, it was not—it was not portable to the extent that I could take it out of my car. It had to be operated off of the automobile's battery.

The next day, eventually, we rigged up radio communications from my car back to the local radio station, but [fol. 1435] I did not have it that night.

Q. Were there students around on the campus carrying transistors and little portable radios in their shirt pockets, and so on?

A. I saw none.

Q. You didn't hear any?

A. No, sir.

Q. It wasn't like being at a football game and hearing another football game in your neighbor's pocket?

A. Not that I know of, sir.

Q. Now, when you were reporting back there to your radio station, did you ever report anything about a mass charge?

A. No, sir.

Q. And you made no report to your station about General Walker having led a charge?

A. No, sir.

Q. You saw nothing of that sort?

A. No, sir.

Mr. Address: That's all.

Mr. Gooch: Stand aside. Thank you very much, Mr. King.

[fol. 1436] CRAIG ELLIS, called as a witness by the Defendant, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Gooch:

Q. Please state your name.

A. Craig Ellis.

Q. And where do you live, please, sir?

A. Nashville, Tennessee.

Q. How long have you lived in Nashville, Tennessee?

A. All my life.

Q. How old are you, Mr. Ellis?

A. Twenty-six.

Q. Are you employed?

A. Yes, sir.

Q. Who is your employer?

A. United Press International.

Q. How long have you been with United Press International?

A. Approximately six months.

Q. Were you employed prior to that time?

A. Yes, sir.

Q. By whom?

A. Nashville Banner.

Q. How long were you employed by the Nashville Banner?

[fol. 1437] A. Approximately three years.

Q. Did you attend a college?

A. I took courses from several schools up there in the Nashville area but not—I did not graduate.

Q. All right, was your first newspaper experience with the Nashville Banner?

A. As far as a daily is concerned, yes, sir.

Q. What other news experience had you had prior to that time?

A. We have a small weekly paper in our home town, or in the suburb, and I had done some work for them, but, you know, just casual type writing.

Q. All right, are you married?

A. Yes, sir.

Q. Have any children?

A. One child.

Q. Now I guess then in September, 1962, you were employed by the Nashville Banner?

A. Yes, sir.

Q. Did you have occasion to go to Oxford, Mississippi, along during the latter part of September of 1962?

A. Yes, sir.

Q. Could you tell us when it was you went over to Oxford during that period?

A. I left late Saturday night. I am not sure what date. [fol. 1438] Saturday night prior to Sunday night when the trouble on the campus was. I left Saturday night and got there early Sunday morning, into Oxford.

Q. Were you sent over there by your newspaper?

A. No, sir, I was not.

Q. What was the occasion of your going over, Mr. Ellis?

A. I have a close friend who is a photographer for United Press. He had been down there several days and had run out of film and some other supplies. Since Nashville is not too far from Oxford an associate of mine and myself wanted to take these supplies to him, so we drove down.

Q. All right, and you got in there, you say, in the early morning on the 30th, Sunday morning?

A. Sunday morning, yes, sir.

Q. About how far is Oxford from Nashville?

A. I would say it is about, maybe, 300 miles, something in that range.

Q. Did you go to a motel or hotel when you got there?

A. We went to—I believe it is the Colonial Hotel, downtown, where my friend was staying.

Q. All right, now, did you go out to the campus of Ole Miss any time on Sunday?

A. Yes, sir.

Q. Do you remember about what time?

A. The first time was about mid-morning. I drove—I [fol. 1439] rode out with this photographer and we just drove around the campus.

Q. All right, did you ever go back to the campus that day?

A. Yes, sir, I think we went back, or attempted—I will say attempted to go back in that mid-afternoon, and we got as far as the bridge on University Avenue and the State Police stopped us and said no one but faculty, students and students' families were being admitted to the campus.

Q. All right, after that incident did you finally get on the campus that evening?

A. Yes, sir.

Q. Do you know about what time, Mr. Ellis?

A. It was shortly after dark. I would say approximately somewhere around 6:00 or 6:30, maybe.

Q. All right, can you tell us generally what you observed that you saw when you got to the campus on this last try?

A. We entered through one of the rear entrances, entrance to the campus, and as far as that entrance was concerned, we were about maybe the second or third car admitted by the State Police.

We drove up along the road that is leading up to the circle area near the Lyceum, and turned onto this drive. I am not sure just the name, what the road is there, and [fol. 1440] pulled on around to the rear and over to the side of the Lyceum Building.

At that time there was, oh, I guess maybe 150 students that were just in the area over to the side of the sidewalk, across the street up from the Lyceum Building.

The Federal Marshals had—were ringing or had set up a line, a complete circle of the Lyceum Building. The State Police were over on the edge of the sidewalk, you might say holding back the students, by keeping them from going out into the street. In other words, here (indicating) were the Marshals, the street, the State Police and the students.

Q. All right. Now did you mingle with that crowd of students you saw there around the Lyceum Building?

A. Yes, sir.

Q. And how long did you remain in that area?

A. I would say approximately maybe 30 or 40 minutes, or something.

Q. All right, did you at any time see any activity between the group that was east of the Marshals and the Marshals themselves relative to throwing anything, or anything of note?

A. Are you referring to the students that were on the other side of the State Police?

Q. Well, I understood you to say you saw about 150 people around there. Where were they?

[fol. 1441] A. Well, the majority—the majority of them were over on the sidewalk. However, there were some maybe, say, 50 of them were over—over—they were sort of—like here is the Lyceum Building (indicating), and here is the—several of the students were here, which would actually have been to the front of the building.

Q. All right.

A. However, of course the police, the State Police had circled around that area, too, and they were behind the police.

Q. Now were you there when the tear gas was fired?

A. Yes, sir.

Q. Now prior to the tear gas being fired, was there any activity between the students and the Marshals?

A. Yes, sir, it seems like that when I first got on the campus and first went up there it was not too much activity. There was some shouting or jeers, or that type of noise. There was no action of any kind that would, you might say, prompt something.

Q. All right.

A. However, as the evening progressed more people seemed to filter into that area around the Lyceum Building, and it seemed like the more people came in the louder the people got and the confusion began—it seemed like it began getting confused.

[fol. 1442] Q. All right.

A. Yes, sir, I saw some—there was of course rocks laying in the area surrounding the other building. I believe there was some construction going on. And I saw some rocks thrown in the direction of the Marshals. Also some cigarettes sort of flipped type at them.

However, I did not see them actually land. In other words I saw them when they left the hands of these people, but as far as watching them until they landed on someone, I didn't. I didn't follow them out.

Of course that—that was at the time that it seemed to be getting louder and more confused and, you might say, unruly.

Q. All right, where were you when this tear gas was first fired?

A. I had moved down into the circle area but over to the side near the drive. Actually almost—the way I recall I was probably in the drive area, coming around on this—that would be the—I'm a little confused on the directions.

Q. Would you like to get down there and look at that map? And see if you can orient yourself, Mr. Ellis?

A. Yes, sir.

Q. In the center of the map is the center—to orient you a little bit, the Lyceum Building is here on the east, the—[fol. 1443] in—I mean on the west; the monument on the east, the flagpole in the center and the various buildings around. Were you generally familiar with the campus when you got to it?

A. No, sir, that morning had been the first time I had ever been on the campus.

Q. All right, sir. Can you orient yourself somewhat with that map?

A. Yes, sir. We had moved, or I had moved from up here next to the Lyceum Building down the drive and I would say maybe half-way down the drive, University Circle here.

Q. Is that where the gas was fired?

A. Well, as I said, I moved into that area and mingled some there for several minutes. Then all of a sudden we heard some noise and I looked that way and could see the tear gas shells.

Q. Resume your seat, please, sir.

A. All right.

Q. Did the gas at that time have any effect on you, or were you far enough away—

A. Well, it seemed like at first—you couldn't call it a volley because there were several. The first one is the one that they fired—didn't seem like they were fired too far. In other words, apparently just in the immediate area from the Lyceum Building.

[fol. 1444] Q. All right.

A. But the more that was fired, it was fired further down towards the flagpole, back down toward the monument and by that time it did, yes, sir. It had. The wind was blowing.

[fol. 1445] Q. All right. Now, after the tear gas was fired, can you describe generally the activity of the students that were out there in the Circle and the vicinity?

A. Well, of course, when the tear gas was fired, it enraged them, the people that were out there.

Q. All right.

A. It—up to that time, they had been, you know, quite loud and, of course, like I said, throwing things. But when the tear gas was fired, it seemed to increase the, their feeling or their emotions and it seemed to get more loud and—it—I guess it had grown into a crowd-type deal by that time.

Of course, the crowd had increased and it caused a lot of confusion and running around.

Q. Did you see the students do anything toward the Marshals after the tear gas was fired?

A. Yes, sir, there was another building over to, over near the monument that is under construction. It would be the Science Building, maybe, and there were concrete blocks and that type of debris laying around the building and they, the people, or the students—I assume they were students—I couldn't swear to that—but they, several of them went to that area, picked up some of the rocks or bricks or whatever they were and came back and went as far as they could up in the Circle and heaved them at the Mar-[fol. 1446] shals.

Q. Could you attempt to fix an estimate of how many people were out there in that Circle, say, along about that time, in groups or scattered about?

A. The groups—that is, to me, it was more of a group situation at that time because not—there were not large groups throwing these. In other—it was just like several here, several there, several somewhere else, and like one group would run forward and throw what they had and then they would fall back and then—that's how it would go.

I would say that in the Circle and down near the monument, I imagine it would run somewhere, three or four hundred at least.

Q. All right. For—some time later in the afternoon or evening, excuse me, did you have an occasion to be down in the area of the flagpole, of the monument?

A. Well, sir, yes, back and forth type.

Q. Did you ever see General Edwin A. Walker?

A. Yes, I did.

Q. And where was he at the first time you saw him?

A. The first time I saw him in the area of the monument?

Q. Anywhere in the campus. The first time you saw him at or near the campus.

[fol. 1447] A. Well, let me go back a little bit. The first time that I saw him that evening or Sunday afternoon was down at the bridge where—the same place that we attempted to get on the campus.

Q. Oh, I see.

A. And he came up in a car and I was not near enough to tell whether he was asking to get on or not, but anyway, the car was turned around and they drove off, he and a man that was driving him.

And that was the first time.

Q. Did you recognize him as General Walker?

A. Yes, I did.

Q. Had you seen him before?

A. Not personally. I had seen him—his features in the newspapers and in the newsreels before.

Q. All right. Now, after that and after you had gotten on the campus, did you at any time see General Walker at or near the campus?

A. At or near the . . . ?

Q. Campus itself?

A. Following that, yes, sir, I saw him in the area near the monument, later that evening.

Q. All right. Now, describe as best you can what happened pertaining to General Walker from the first time you saw him at or near the campus until we ask some [fol. 1448] further questions. Would that be all right?

A. Yes, sir.

Q. Go ahead.

A. I was over on University Circle there, about halfway down the street or the Circle.

I saw some activity of the students down near the monument and I wanted to see what they were doing, so I walked down that way.

As I neared that area, I saw a man in a white hat and the nearer I got, I recognized him to be General Walker.

Q. And where was General Walker at that time?

A. He was in—away from the monument in—here is the monument here. He would be out in the street area, actually.

Q. East of the monument?

A. Yes.

Q. All right. Go ahead. Continue with your narration.

A. He, at the time I saw him, it was—the reason I couldn't recognize him at first, because, the way I recall, he was turned away from me.

As I neared him, however, he turned around and was just walking in that immediate area for a very short time and then moved up near the monument.

[fol. 1449] Q. All right. Did you hear any conversation between him and anybody else?

A. Not direct conversation, no.

Q. All right. Did you hear anything that was said to General Walker by anybody that was around there?

A. I heard several of the students, as I neared where he and the students were, I heard several of the people say, "Here is the General. Here is our leader."

Q. All right. Then, what happened?

A. A very short time after that, apparently the students were, had asked him—before—

Mr. Watts: Excuse me.

The Witness: I am sorry.

The Court: You may not testify as to what you thought the students may have asked him.

Mr. Gooch: Just what you saw.

The Court: Just what you saw.

A. Well, anyway, he moved to the base of the monument and then a short time after that stepped up on the monument where he would be up above the group.

Then the crowd, the people, had begun gathering at the base of the monument.

By Mr. Gooch:

Q. Would you estimate how many people finally gathered there around the base of the monument at about the time [fol. 1450] General Walker got on the monument?

A. I would say that it began, it ranged, say, close to two hundred at first because not every one knew that, or—I don't know how to explain—

Q. You can't say what everyone knew.

A. Well, that's true. In other words, it was small at first but it grew, the crowd grew.

Q. All right.

A. As the General was there.

Q. All right. Will you tell us everything you heard General Walker say there at that time?

A. Yes, sir. May I refer to some notes I have?

Q. Did you make notes of what occurred there that night?

A. Yes, sir, I did.

Q. Do you have those notes with you?

A. I do, sir.

Q. Did you make them at the time you were listening to General Walker?

A. I did, sir.

Q. Yes, I would say so, unless the Court objects.

The Court: No objection from me.

Mr. Address: May we see them first, Your Honor?

The Court: Yes, you can look at them if you want to.

[fol. 1451] The Witness: If I can—may I say this, sir—

The Court: Well, he wants to look at them and then you can go ahead.

The Witness: All right, sir.

(Instruments handed to Mr. Address.)

Mr. Watts: Can't read them.

Mr. Address: Thank you.

The Witness: May I say something, sir?

The Court: Yes.

The Witness: These notes, what I attempted to was to take—in other words, something would be said and then I would put it down. It's possible that I—well, I know for a fact that I missed some of the things that were said. But I tried to take down things—now, if something would be said, I would put it down and, in other words, I could not listen to all the things that were being said, but I tried to take the key phrase or the key things that I could remember or that I heard him say.

By Mr. Gooch:

Q. All right, go ahead now and tell us what your recollection of what you heard the General say there on the monument was.

A. The first note that I have, the General said, "I want [fol. 1452] to compliment you all on the protest you are making."

Now, the—some of these words are misspelled because I was doing this in the dark and it was just—wasn't too easy to write and listen and everything at the same time, so that's why. . . . "Protest" made. . . .

Q. Go ahead.

A. Or made here tonight. "You have a right to protest under the Constitution."

Q. All right.

A. "Bloodshed. . . ." Let's see, "any bloodshed here tonight is on the hands of the Federal Government and the agencies thereof."

Q. All right.

A. The next, there was some mention of a sell-out.

Q. All right.

A. Now, I haven't got the complete notes on this and it's just part of it. I don't know whether I can follow it directly or not.

Q. Just the best you can.

A. Something concerning the fact that people—people in the middle of the campus had been talking or conferring or something concerning a sell-out.

Q. All right.

A. I remember the word "sell-out". And then some- [fol. 1453] thing to the effect, "Definite orders not to let Federal men on the campus at orders of a certain official." And about this time there were shouts, "Who is this official? Who is this person?"

Q. All right.

A. And my next recollection is that General Walker said, "Birdsong." And who, I—I did not know at the time, but I later learned to be the head of the State Police or the State Highway Patrol or something or other.

Q. All right.

A. Then, he then said, "This has been reported to me by representatives of the Governor."

Q. All right.

A. The next note, "There is . . . there is . . ." Now, I believe from reading the notes that I should have said, "This is," but I have got written now, "And there is a long route to get to Cuba."

Q. All right.

A. The next thing, about this time there was some commotion near the base of the monument and a man who I later learned to be Father Gray, Duncan Gray, Episcopal Priest there in Oxford, came there near the base of the monument.

The thing I recall from General Walker is him saying, "We have an Episcopal minister here," and there was some [fol. 1454] commotion. I did not get what was said at that time.

The next thing that I recall him saying is that, "I am sorry that I am in the Episcopal Church."

Q. All right.

A. About this time Rev. Gray was grabbed by two or three of the people that were near him. I think he fell to

one knee or sort of toppled somewhat, but a couple of the students or people near him grabbed him up and hustled him away or moved him away from the area.

Q. All right.

A. The next thing that I recall and have notes, that the General said, is, "There is no stopping point. You can continue. Many people from out of State are heading toward Oxford."

Q. All right. Anything else?

A. Well, the next note that I have here is an observation.

Q. Well, that wouldn't be admissible.

A. But it was not what the General said.

Q. All right. Now, were you there at the conclusion of the General's speech?

A. Yes, sir.

[fol. 1455] Q. Would you describe the action of the General after he left the monument.

A. Yes, sir, he—at the completion of the talk he stood at the, where he was for a short period of time, as I recall, turned to his left, stepped down from the monument and turned where he would be facing the Lyceum Building.

He took several steps up the walk by himself. I recall that there might have been one or maybe two men that came up with him, not came up with him, but caught up with him, I will say, and this group, or these two or three, including General Walker, moved up maybe 10 or 12 feet up the sidewalk.

Q. Then what happened?

A. Well, about that time the people that were listening to the General moved in behind him and followed him for a short ways, maybe just a very short ways, and then a solid line was formed across the campus with the General and these two men in the middle of the line.

Q. Which way did they go?

A. Toward the Lyceum Building.

Q. How far did they get?

A. I did not follow this group. However, I lost sight of them as they neared the flagpole.

Q. All right.

A. Or in that immediate—I mean—immediate vicinity. [fol. 1456] Q. What happened? Do you know of anything that happened at about the time the group got to the flagpole?

A. Either at that time or shortly thereafter, shortly—in other words shortly after I lost sight of the General and these people, there were several volleys of tear gas fired.

Q. And then what? Did you see General Walker there after—

A. No, sir.

Q. Would you estimate the number of people that fell in behind the General as he started up towards the flagpole?

A. I would say it would range from four to five hundred people.

Q. All right. Now, did you see anybody near General—the General, did you see anybody with their hands on the General as they went up there?

A. These two—one or two people that got to him first, or came up with him, I could not tell whether they were actually arm-in-arm, or not. I don't know.

Q. All right. Were they close to him?

A. Yes, sir.

Q. What kind of walk or what kind of movement did they make as they started up there?

A. At first when the General was by himself it was slow, sort of a slow walk, and then it increased to sort of a brisk [fol. 1457] walk. The further it went.

Q. You said you lost sight of the General about the time they got to the flagpole?

A. Near the flagpole, yes, sir.

Q. What was the movement of the crowd at the time you lost sight of the General?

A. My best recollection the further they got the faster they got.

Q. All right, where did you go?

A. Well, when the tear gas was fired it was a large volley and it was fired directly—well, it was fired where

some of the shells landed near the monument, and, of course, I was near that, or near that area, and I just tried to get out of the way because it was all over the place.

Q. Where did you go then?

A. I believe that I went into one of the nearby buildings, or near one of the buildings to try to find water, a water hydrant or water faucet of some kind to wash my eyes out because they were filled up with gas.

Q. Incidentally during the time that crowd was listening to General Walker's speech, did you see any evidence of rocks or missiles in their hands?

A. No, I didn't.

Q. All right, you don't know if they were throwing anything or not. Just what you know is what we are trying [fol. 1458] to get.

So after you went in somewhere to try to get the water (sic) out of your eyes, the gas out of your eyes—

A. Yes, sir.

Q. Did you see the General any more that night?

A. No more that night, no, sir.

Q. All right, and did you make any report of what you had seen and observed and jotted down, to your newspaper?

A. Yes, sir. If I may drop back a little bit, that afternoon I was at the Oxford Airport when the Federal Marshals were brought in by plane. At that time I called the Executive Editor of the paper and told him I was down there. He then directed or instructed me to stay in Oxford and try to keep tab on any local people or students or older people, or just whoever was down there from the Nashville, Memphis, Tennessee Area, which I attempted to do.

Q. Did you know whether or not there were any United States Marshals that might be from Nashville?

A. Yes, sir, two of the Marshals—while in Nashville I was the Federal reporter.

Q. What do you mean, Federal reporter?

A. I cover all Federal activities, Federal Court, anything having to do with the United States Government there in Nashville.

Q. All right.

[fol. 1459] A. And two of the Deputy United States Marshals from Nashville who I met since I have been on the—covering the courthouse, I had—or I had information that they were—had left Nashville and I presumed, just from the activity that—in some of the other cities—that they might be heading toward Mississippi.

Q. All right. Now, was the Nashville Banner at that time a morning paper or afternoon paper?

A. Afternoon paper.

Q. Did you at any time after you left the campus or while you were on it or after you left the campus communicate what you heard General Walker say and this activity of moving with the crowd toward the Lyceum Building—did you communicate that to your newspaper?

A. There were very few long distance lines out of Oxford at the time and I attempted for several hours, somewhere between four or five hours to get a line out, but the best—my best recollection, I don't believe I did.

Q. All right, did you the next day?

A. Yes, sir, the next morning I finally got a line.

Q. All right, do you know whether or not your notes and your quotes were used by the Nashville Banner?

A. The information I gave them the next morning concerning the Federal Marshals from Nashville that I saw getting off one of the planes that Sunday afternoon, I told [fol. 1460] them about that. I began to tell them concerning the—that night before, and what had happened, and they said, "Don't worry about that, we have got both wire services and we will get our story from that."

Q. What wire service is—did that allude to?

A. Associated Press and United Press International.

Q. Have you described as best you can everything that occurred on the campus with particular reference to General Walker?

A. Yes, sir, I believe I have.

Mr. Gooch: Your witness.

Cross examination.

By Mr. Watts:

Q. You say when you tried to tell them the next morning about what happened, the night before, your superiors said, "Don't worry, we take both wire services, the AP and the UPI, and we will get what happened from that?"

A. Yes, sir.

Q. And how long had they taken the UP? Do you know?

A. Since before I went with the paper. But I don't know.

Q. Where did this conversation with your superior take place? After you got home to Nashville?

A. No, sir. I—by over long distance telephone from the hotel there in Oxford.

[fol. 1461] Q. With whom?

A. Sir, I don't recall. We have people that answer the phone and just takes the notes down. I probably spoke with one of my—either the City Editor or Assistant City Editor. Then he referred me to someone to give the notes to, but I don't recall who I gave the notes to.

Q. When did you get back to Nashville?

A. I had some difficulty getting out because of the airport, it was being used by the military, and I don't believe I got out of there until—I believe it was Tuesday afternoon.

Q. That would have been the 2nd?

A. Yes, sir.

Q. And you went directly to Nashville?

A. I went to Memphis and to Nashville.

Q. Did you report in then to your paper?

A. Yes, sir.

Q. With whom did you talk?

A. Well, I would—of course the City Editor is my—my immediate superior.

Q. Well, who is he?

A. He is now the Managing Editor of the Banner. His name is Bob Battle.

Q. Was this conversation you testified to a while ago when you called in and talked to your paper and endeavored [fol. 1462] to tell them what you had seen concerning General Walker and they told you that they took both of the wire services, both the AP and the UPI, was that with your City Editor or someone else?

A. That I don't recall. However, if I can say this, if—if it—if that came from one of the persons I was giving the notes to, why I'd—he would have been instructed to say that, I'm sure, because we take these wire services and we were just actually interested in local people.

Q. Prior to seeing Walker, you had walked from the northeast corner of Park Hill over to the monument, had you not?

A. Yes, sir.

Q. Had a lull taken place in the rioting about that time, as you made that tour back to the monument?

A. It was more of a—it seemed—well, to me, there would be scattered rocks being thrown, and things like that from groups, maybe all the time, but then again there wasn't a lot of movement or a lot of activity in the very early evening.

Q. No, sir, you must have misunderstood my question. My question to you, sir, was as you left the northwest part of the oval and walked over to the monument had there been somewhat of a temporary lull in the rioting about that time? You know what a lull is, don't you?

[fol. 1463] A. Yes, sir.

Q. Well, yes or no, was there a lull?

A. Well, may I answer—let me answer like this.

Q. You can answer any way you want to?

A. I don't believe you would call it a riot until after the tear gas.

Q. Oh, yes, this is way after the tear gas.

A. I know it, but—

Q. There was activity after you left the northwest corner of the circle?

A. Yes.

Q. And went towards the monument?

A. Yes, sir.

Q. Some small activity by small groups of people?

A. Yes, sir.

Q. Nothing large like what you testified you saw General Walker participate in after the speech?

A. Yes, sir.

Q. Nothing like that?

A. No, sir.

Q. You would—you were in a position where you could have seen it?

A. Yes, sir.

Q. Now my question is: Immediately before you went to the monument had there been a lull in the scattered activity [fol. 1464] that you witnessed before you went to the monument?

A. Well, the activity continued, but not—not as—up and down type thing.

Q. That's right, exactly, but now the question I am trying to get over from you or get out of you, and all I want is try to relive this thing, son, and see it and tell us what you saw.

Now the question is: When you decided to leave the northwest part of the circle and come to the monument the crescendo was down rather than up, wasn't it?

A. Sir, I just—I just can't recall.

Q. Why did you leave that area and go to the monument?

A. Because I wanted to move around and just get it from different angles.

Q. Now then when you got back to your paper in Nashville on the evening of the 2nd, were you the only one there that had just come from Oxford?

A. The—one of the photographers for the Banner had drove me down there, he came back Sunday night before all this; came back late Sunday afternoon before anything happened.

Q. Were you the only one around your paper office there, or whatever you call it?

A. As far as the Banner is concerned, yes, sir.

Q. And they were somewhat interested in what you had [fol. 1465] seen, weren't they?

A. Somewhat, yes, sir.

Q. Did you have a lot of conversation with the people there about what you had seen, and what you knew about the situation?

A. Yes, sir. Some. It was more individual type rather than a lot of people gathered around.

Q. I will ask you if this didn't occur when you got back to your office that—perhaps it was the City Editor or some of those people or some of those people told you, "Now we got two reports out of Oxford, one was the UPI report that said that during a lull in the riot General Edwin A. Walker mounted the Confederate statue on the campus and begged the students to cease the violence, and the other report was the Associated Press report that General Walker arrived on the campus, was immediately recognized by the crowd, was requested by the leaders of the riot, or the leaders of the mob to "lead us to the steps; that Walker had assumed command of the crowd and lined up with men on either side by each of his arms, and with 1,000 people behind him led a charge towards the Marshals, after which tear gas was fired, and he fell back to the monument and made his speech."

Now did you learn those two conflicting reports were existing in your paper at the time you first got back?

[fol. 1466] A. No, sir, I don't believe I did.

Q. When did you first hear the UPI report that Walker had begged the students to cease their violence and was met by one massive jeer?

A. I would believe it was much later because at the time of course I was still with the newspaper, and other than just a casual interest in what the wire services had, I was more interested in our local type thing, and I just didn't pay that much attention to what was said.

Q. Did your paper print the AP version that Walker had led a charge before he made the speech on the monument, or the UPI version that during a lull in the riot he begged the students to stop their riot and was met by one massive jeer? Which of those two conflicting reports did your paper print?

A. Sir, I do not recall what the front page—what the dateline was. Our paper, because they take both services, they sometimes take the wire dispatches and use parts of both stories. I do not know who edited—which service they used for the lead story that next morning.

Q. As a matter of fact, to refresh your recollection, try to think back and see if this didn't happen, that these two conflicting reports came in, and the AP report was printed by the paper? Isn't that what happened?

A. Well, I didn't see it until Wednesday—until Tuesday [fol. 1467] afternoon.

Q. I know that, but when you saw it on Tuesday afternoon or Wednesday or whenever it was, wasn't it the AP report?

A. I can't recall.

Q. You just have no recollection about that at all?

A. No.

Q. Well you have a good memory on other things.

A. Well—

Q. Is your memory as hazy on that as these other things?

A. No, sir, these other things, that is something that is in my memory that I will never forget.

Q. Well, to a newspaperman, was it significant to you that there would be such a diametrically opposite report between the wire services and releases of the two biggest wire services in the world? Didn't that strike you as being significant?

A. To tell you the truth I don't—when I first got back I don't recall that there was—that anyone said anything about this, what you call conflicting reports.

Q. Do you know Mr. Al Kuettner, the UPI reporter who was present on the campus and wrote that UPI release?

A. I believe I have spoke to him on the phone. I never met him personally because I haven't been with the service [fol. 1468] that long.

Q. Are you a newsman or a reporter? Or what is the terminology?

A. I was a reporter with the Banner for approximately three years. I am the—have the position of a newsman with United Press.

Q. You are now in the position of a newsman?

A. With United Press, yes, sir.

Q. Now at this time you were 24, I guess, weren't you?

A. Yes, sir.

Q. Were you classified as an experienced reporter, or what? Or what in local terms is called a cub reporter?

A. No, sir, I had been a cub since I started with the Banner in July of 1960, and got out of the Navy. Four months later I was put on the Federal beat, so I had been on the Federal beat, or the Federal Courthouse, reporting for two years, and, believe, me, they don't put cub reporters on there.

Q. So you were a cub for only about four months?

A. Yes, sir.

Q. All right. Now then as I understand when you first got to the Ole Miss area shortly before the time, before the tear gas was fired, you went to the area of the Lyceum?

A. Yes, sir.

Q. And you saw Marshals ringed around the Lyceum [fol. 1469] Building?

A. Yes, sir.

Q. Did you see the pictures that were presented in court this morning?

A. No, sir, I didn't.

Q. Here directing your attention to the Plaintiff's Exhibit 18, is that referable to the way it looked, and the same with respect to Plaintiff's Exhibit 17?

A. Yes, sir. Let me say this also. This seems to be before dark.

Q. That's right.

A. And, actually, I did not get on the campus until after the sun had went down, so it was becoming dark—it was actually dark at the time we got there. However, this—yes, sir.

Q. Well, how, if any—after that explanation, how if any, did the positions of the reporters (sic) differ from what is in this picture?

A. Position of what?

Q. The Marshals.

A. That is the same.

Q. The same?

A. Yes, sir, that is the same.

Q. Anyone have the pointer?

Mr. Address: Over by the chart.

[fol. 1470] Q. Son, would you walk over to the board, please, and pick up the pointer. You see the pointer before you there?

A. Yes, sir.

Q. Now then would you put your pointer on the flagpole and the circle. You see an intersection in the middle of the circle?

A. Right here (indicating).

Q. The top of this map is north, the left is west, the right is east. Would you put your pointer on the position where you were when tear gas was first fired?

A. I was in the area—this area here.

[fol. 1471] Q. You are pointing right southwest of the Lyceum Building—as you were—of the YMCA Building?

A. Yes, sir.

Q. All right. Then, where did you go from that point—

A. I moved further down.

Q. Further towards the monument?

A. Yes, sir, or further down in this grassy area next to the Y Building.

Q. All right. And how long did you stay there?

A. Just a short period of time.

Q. Now, assuming the tear gas was fired at 8:00, about what time would you say you moved into the area west—east of the YMCA?

A. Well, let's see, now east would be—

Q. Where you put your finger or your pointer?

A. Uh-huh.

Q. Five minutes, ten minutes, twenty?

A. You mean following the firing of the tear gas, how long did I stay here at the building before I moved further down in the area?

Q. Right.

A. Maybe ten or fifteen minutes.

Q. All right. And where did you go from there? Put your pointer on the next place you went?

[fol. 1472] A. Well, from there, as I recall, I moved down the avenue, University Avenue, past the monument.

Q. Past the monument?

A. Yes, sir.

Q. And was there a vast crowd at that point when you arrived?

A. Well, I wouldn't describe it as vast. It was a lot—several people but it was scattered; I mean, in other words, there would be so many here, so many here, that type.

Q. More or less than a hundred within a radius of a hundred feet from the monument?

A. I would say in all, approximately a hundred.

Q. All right, sir. Now, then, before you left that position up by the YMCA, describe the activity out in the Circle toward the Marshals?

A. There was scattered throwing of the missiles or rocks, firing the gas.

Q. Well, five, ten, maybe, people, something like that?

A. No, sir, I would say that there were more than that.

Q. Well, I am talking about in each little group that would throw.

A. Oh, well, yes, they would range in groups, I guess, [fol. 1473] maybe ten to fifteen apiece.

Q. All right. But in the whole area you, as I remember, I think you said there were some two or three hundred people out there in the general Circle area at that time, is that right?

A. Well, that's covering the entire Circle, sir.

Q. That's what I am talking about.

A. Yes, sir; uh-huh.

Q. Now, as I get your timing, you left that position about 8:15—8:10 or 8:15 and went back past the monument?

A. Uh-huh.

Q. How long did you stay in that area?

A. Just a matter of minutes. I couldn't give you an exact time.

Q. And what did you see?

A. There was—

Q. Would you put your pointer on the area so we can keep up with you?

A. I had moved down past the monument, down University Avenue. As I recall, the—one of the reasons that I moved down there was because the photographer, UPI photographer, that I had came to see, his car was parked that way and I went to check on his car.

Q. Now, as a matter of information, you had some lad along with you, didn't you, that had come from—

[fol. 1474] A. This photographer at first had been with me when we first got on the campus. However, he left me just shortly after we got on the campus and I don't know where he went from there. I did not see him until much later in the evening.

Q. Well, now, were you with the photographer at this time?

A. No, sir.

Q. Were you by yourself then?

A. Yes, sir.

Q. No one that you knew anywhere around you?

A. I might have seen some other newsmen but I did not know them by name—just by sight, from being around the press headquarters.

Q. All right. Would you estimate as a fair time that you arrived at this point near the monument about 8:15?

A. Would I estimate the time? I didn't understand you, sir.

Mr. Watts: Read the question.

(Record read.)

A. Yes, sir, I think so.

By Mr. Watts:

Q. And how long, then, did you stay in that area?

A. Well, let me ask you—

[fol. 1475] Q. No, please—

A. I'm sorry. Well, I—

Q. Go ahead and answer the question first, son, and then you can ask me.

A. If you mean down here for the car.

Q. Wherever you went, yes.

A. Just a short period of time. This is before I went back up in this other area.

Q. I understand.

A. And then back down.

Q. I understand. I am trying to trace your route. You went to the YMCA and down toward the car and you stayed at the car a short period of time?

A. Just a short period of time.

Q. Then where did you go?

A. Well, made my way back up the Circle.

Q. Along the north side of University Avenue?

A. Yes, University Circle.

Q. And taking time out for your trip to the car, what time would you assume you arrived along again in front of the YMCA?

A. Maybe 8:30 or maybe a little bit later.

Q. All right, sir. Then where did you go? Oh, incidentally, as you arrived back in front of the YMCA again, describe to us the activity of the people out in the circle [fol. 1476] when you were there?

A. I would say that it was, as before, some scattered throwing, but nothing—

Q. Nothing massed?

A. No, not at that time.

Q. Would you call it sporadic activity?

A. Yes, sir.

Q. And how long did you stand there in front of the YMCA as you were going back northwestward and observe into the Circle?

A. Again it would just be a short time. The time is something that I am—I can't—

Q. Did you have a watch?

A. I believe I had left it back at the hotel.

Q. All right, go ahead.

A. The way I remember. And so,—I guess maybe 8:30, maybe a little bit later, I don't know, just everything seemed to happen between 8:00 and 9:00, the moving back and around.

Q. Would a fair bracket be between 8:30 and 8:45 that you got back in front of the YMCA?

A. Yes, sir, I believe so.

Q. And that was when you looked out toward the southwestward and saw this sporadic activity in the Circle?

A. Uh-huh; yes, sir.

[fol. 1477] Q. All right, sir. How long did you stay there in front of the YMCA?

A. Five, ten, fifteen minutes, somewhere in that area, but I couldn't give you it exact.

Q. Well, where did you go then from there?

A. I tried—I just moved back and forth. Right around in that area of the building. In other words, it just seemed to me it was the safest place, it was not close enough where you could get the gas and it wasn't—but it was close enough

where you could see what was going on. I tried to stay in that immediate area.

Q. But still, as a newsman, you were very interested in what was going on down in the Circle, weren't you?

A. Yes, sir.

Q. And did you have anyone with you yet or were you still alone?

A. I might have run into someone, but I can't recall. There was certain times I did and certain times that I was alone.

Q. And about how long, then, did you mill around in that area and look down toward the Lyceum?

A. As I recall, I stayed in that immediate area until the time that I saw the activity near the monument.

Q. That is when you reported, you walked back down there and saw General Walker?

[fol. 1478] A. Yes, sir.

Q. Near the monument. Now, as you stood there in that position or in that area, could you see the Lyceum Building or make the outline?

A. Yes, sir. Yes, sir.

Q. Could you see the flagpole?

A. As I recall, the most of the lights were still working at that time. Later they were all, rocks were, had broken them out, later in the evening, but I believe at that time I could still see the flagpole, yes, sir.

Q. You certainly could have seen, if someone had led a massed charge across the north side of that Circle towards the Marshals, starting from the vicinity of the monument, couldn't you?

A. Well, sir, I believe you described it as sporadic. Now, there was times—

Q. Wait a minute, son. I don't believe you understand my question.

A. Well, I'm sorry.

Q. My question was: You could have seen if a massed charge of a thousand people had gone across there. I didn't say it did. I said if a massed charge of a thousand people

had gone across the north side of the Circle, you undoubtedly would, and must have, seen it from that point, couldn't you?

[fol. 1479] A. If there was a thousand people, I'm sure I would have seen it.

Q. As a matter of fact, you couldn't have possibly missed as many as a hundred people?

Mr. Gooch: I object to that as a conclusion, if the Court please.

Mr. Watts: If your Honor please, this is cross examination.

The Court: Well, go ahead and ask him your question. I will permit that.

By Mr. Watts:

Q. Mr. Witness, from your position there, if as many as a hundred people had moved across the north side of that Circle, you couldn't have helped from seeing it, could you?

A. Certain—that was—like I have said, there was more of that in these scattered groups. Some of these groups would join together at times and go as one.

Q. Sure. But they were just milling around, weren't they?

A. Well, sometimes, sometimes, like I said, they were joined together and run up together, throw their rocks and come back and then they would break, break—break away from each other and then they would join and go back up.

Q. Now, at any time—let me borrow your pointer—while [fol. 1480] you were standing in this position, right here by the YMCA, were you out as far as the sidewalk?

A. The sidewalk, actually at the Circle?

Q. Yes.

A. No, sir, I think—the best I recall, I stayed on the other side of the street itself, on that sidewalk and looked across.

Q. Now, then, you say down in this area there was sporadic activity of small groups of people?

A. Well, all over, actually.

Q. Yes, all over the Circle?

A. Uh-huh.

Q. Now, you never did see any substantial group of people form up down here in this area, march across here and then get up in here before they attacked the Marshals, did you?

A. They actually formed in different parts of the Circle. I recall some of them formed over in here (indicating) and went up; some maybe in this area would venture as far as this area before they would form up and then they would go up—I—yes, sir, I believe I recall some forming over here.

Q. Here (indicating)?

A. Yes, sir, they seemed to have got as close as they could to the Marshals before they threw, evidently to make [fol. 1481] sure their missiles would get up there.

Q. Would you say as many as one hundred people formed up in this area here and marched on the Marshals? Think it over now. Yes or no.

A. I don't believe I can answer yes or not.

Q. Well, how can you answer it?

A. Now, it is possible—I am—since some of the groups formed here—

Q. Yes.

A. —now some of them would, say, so many would form here and then maybe some of these would see these going up and would join them at different or various parts of the Circle.

Q. All right.

A. Maybe by the time they got up past the flagpole, there would be a hundred, but now whether—I can't—I couldn't estimate them actually being that many at that time.

Q. Let's see, a man is about eighteen inches wide or two feet, maybe.

A. All right.

Q. A hundred people would be at least one hundred fifty feet wide, wouldn't it?

A. If they went like that, I mean, if they lined up. Now, a lot of times they would just all run in a group, [fol. 1482] I mean just all scattered out and then run forward.

Q. Well, now, as I remember your testimony, when General Walker finally finished his speech on the monument, you saw people lining—

A. Oh, yes, sir.

Q. Now, was that the first lining up you saw all night?

A. Yes, sir.

Q. In other words, prior to Walker's speech on the monument, you saw nobody line up and move toward the Marshals, as I understand; is that right?

A. Not as such, no, sir.

Q. All right. Now, certainly, then, before the speech on the monument, while you were standing here, if a hundred people had lined up and marched across this area here in a charge and cast their missiles at the Marshals, you undoubtedly would have seen it, wouldn't you?

A. If they had of lined up.

Q. Yes, sir. And if a thousand people lined up, you couldn't keep from seeing it, could you?

A. That's true, sir.

Q. And that actually didn't happen before the Walker speech on the monument, did it, anything like that, did it? [fol. 1483] A. The hundred or the thousand?

Q. Either. Let's say, take first, the thousand. Did a thousand people line up and march across here before the speech on the monument?

A. I don't believe there was ever a thousand people in that circle when I was there.

Q. All right. Now, from the time you were here, assuming that someone down here in the vicinity of the flagpole had walked on the campus, conferred with the leaders of the

mob, permitted ~~two~~ leaders, one to get him by the arm on each side—

A. Yes, sir.

Q. —with a thousand people behind him, and had gone across the Circle in a charge on the Marshals, you couldn't conceivably have missed that, could you?

A. No, sir, I really couldn't.

Q. Did you ever at any time before the Walker speech on the monument see a charge with three people out in front leading it? And I'll restrict that a little more: A charge coming to the north side of the flagpole?

A. The fact that there was confusion of these people and that there was scattered groups and these groups joined from time to time, I don't honestly believe that you could have been able to determine whether there was two or three out in front or not, because sometimes there would be some [fol. 1484] that had actually got this far up in the Circle in front of these people, maybe that started out from here, see (indicating).

Q. Yeah.

A. So, now, as a matter of fact, at this time there was no leadership of this operation at all, there were just sporadic little groups, wasn't it?

A. I don't believe there was just any one major person that was doing it, no, sir, not that I—

Q. At least if it happened like I have outlined from where you were standing, you certainly didn't see it, did you?

A. One or two people leading everybody?

Q. Yes, sir, well, say three people leading a mass of other people across this area where I have marked. If that happened, you certainly didn't see this, did you?

A. No, sir, I didn't.

Q. And with you standing right there roughly 120 feet from the center of this right quadrant, if it had happened, you would have had to have seen it, wouldn't you?

A. I believe so.

Q. All right, sir. Take your seat. From what you saw of that crowd out there prior to the Walker speech on the

monument, it wasn't possible for anyone to assume command of that crowd, was there?

Mr. Gooch: I believe I object to that as calling for an opinion and conclusion.

The Court: Sustained.

By Mr. Watts:

Q. Did anyone try to assume command of you?

A. No, I think everybody—we were all trying to assume command of ourselves.

Q. That was just about the extent of one man's capability there that night, was to retain command of himself, wasn't it?

A. Well, I would

Mr. Gooch: Go ahead and answer.

A. I didn't understand your question.

[fol. 1486] Q. I said about all anyone could command that night, with all the confusion there was, was himself, is that right?

A. Sir, I believe it is according to who it was.

Q. Did you ever see General Walker run at any time that night?

A. No, sir, I don't believe I did.

Q. Did you ever know a young lad, 21-year-old reporter for the Associated Press, named Van Savell, or Savell, I think he so calls himself?

A. No, sir, I don't believe I have met him. I stayed with the United Press people the entire time I was there, and I don't believe I ever met him.

Q. Do you know where Van Savell is now?

A. No, sir.

Q. Have you heard?

A. No.

Q. Son, with whom all have you discussed this lawsuit?

A. Prior to my appearance here?

Q. Right, prior to right now? Just working backward tell us who you have discussed it with.

A. With the attorneys for—

Q. Mr. Gooch?

A. Yes, sir.

Q. Anyone else?

[fol. 1487] A. These three here.

Q. Any other attorneys?

A. Yes, sir, Mr. Smith.

Q. The gentleman with his hand on his face?

A. Yes, sir.

Q. Who else?

A. Let's see. I believe that is all. I mean as far as the attorneys are concerned.

Q. Was that since you got here?

A. Yes, sir.

Q. Were you subpoenaed to come here?

A. I was.

Q. All right, and where? At Nashville? Were you subpoenaed at Nashville, or after you got here?

A. I received it after I was—arrived here.

Q. All right, sir.

A. Excuse me. Do you want to know the other people I have talked with?

Q. If you can remember anyone else?

A. Yes, sir, I gave a statement to the FBI, I testified before the Grand Jury in Oxford.

Q. Do you mean when they tried to indict General Walker?

A. Well, I don't know who they were trying to indict, but during that particular investigation that they had there, [fol. 1488] I was—I testified, yes, sir.

Q. Did you testify concerning General Walker at Oxford?

A. Sir, I am not allowed to say what I testified.

Q. Well, that's right. Yes, sir. But now have you told us everybody else you talked to?

A. I believe that is it.

Q. When did you last talk with anyone with the FBI about this? Before or after the Grand Jury?

A. Before.

Q. All right. Now then you say you saw General Walker, come up University Boulevard, or did I misunderstand you?

A. That is the one leading across the bridge and up to the monument area?

Q. Yes, sir.

A. Yes, sir.

Q. Was he walking slowly or striding?

A. Well, now, as I said, at the time I first saw him his back was to me and he was just standing in the area in front of the monument, out in the street area.

Q. You didn't then see him actually come up University Boulevard, or did you?

A. No, sir, I really didn't.

Q. Was he stationary or moving when you first saw him?

A. When I first saw him he was stationary.

Q. How close to the monument?

[fol. 1489]. A. It would have been—oh, it was several feet. It was not a long distance. Just a short distance away.

Q. In terms of the walls of this room, could you pick an appropriate distance?

A. From the monument, from General Walker to the monument when I first saw him? That is the question, right?

Q. (Nods head affirmatively.)

A. I would say from here to—just a short ways further than this door here (indicating).

Q. Well, in terms of this wall back here (indicating) how about it?

A. I don't believe it was that far.

Q. Somewhere between those two distances?

A. Yes, sir.

Q. Now what attracted you to General Walker?

A. Well, the thing that attracted me, not so much to General Walker, but just attracted me to the area, it just seemed to me some commotion or some activity down there that I hadn't witnessed before. I hadn't noticed it before.

Q. Now you were in front of the YMCA you saw that commotion?

A. Yes, sir, over in that area.

Q. In the YMCA area?

A. Yes, sir.

Q. Would you take this pointer, please, and step up [fol. 1490] there and estimate from the Lyceum how far it is? Do I understand you have had some naval training?

A. Yes.

Q. Navy training?

A. Yes, sir.

Q. You know how to read maps, don't you?

A. Well, I don't know, it has been a long time. I don't know whether I can read this or not.

Q. Let me help you a little. Always start at zero, and get your first measurement. Put your finger on here and see how far it is to the YMCA. Just use your finger. Look out now you will have it on the floor if you are not careful.

From the monument. Here is the YMCA: Now put that down on the scale and let's check how far it is. Down on this scale.

A. About a hundred and thirty—

The Court: Talk out if you want this in the record.

Q. Did you say about a hundred and thirty feet?

A. Approximately a hundred and thirty feet.

Q. All right, take the stand. Now at that time all you could see at the monument was the commotion and you could not see Walker, is that correct?

A. That is true.

Q. You decided to walk over there?

A. Yes, sir.

[fol. 1491] Q. What size crowd did it look to you, as you were approaching?

A. Maybe 100, 150 people.

Q. And something less than the width of this room before you could see General Walker?

A. No, sir, I said that was how far he was from the monument when I first saw him.

Q. Oh, I see.

A. When I first saw him.

Q. He was that far east of the monument?

A. East, yes, sir.

Q. And what was he doing?

A. First his back was to me and that was when I noticed the white hat, which I had—I had seen him wearing in newsreels and newspaper pictures, and the closer I got, and as I noticed him he turned around and that is when I realized who it was.

Q. What was he doing then?

A. Just talking with the people, apparently now.

Q. What was the size of the group in his immediate presence?

A. This group of 100 to 150 were sort of scattered right at first in that immediate area of the monument. It seemed like, or I won't say it seemed like—after he was there the group of—group sort of came nearer to him. I guess maybe [fol. 1492] 50.

Q. Did they surround him on all sides, or was there most of the group on one side than the other?

A. I don't believe it was a complete surrounding of him, no, sir. I am sure there was ways he could move out if he wanted to.

Q. Was there still sporadic activity up close to the Marshals?

A. Some.

Q. Were all the people back in the area of the monument, or were some to the westward?

A. That would be near the flagpole?

Q. Right. Right, no, strike that, let's start over. Were all the people near the area of the circle, near the monument, or were some of them further to the west beyond the flagpole?

A. Actually, let me say this. When I saw the activity down there at the monument I disregarded what was happening in the circle, or in the part near the Lyceum Building, and I just walked directly down there, and I did not look back up there to see what the action was. Other than when I first started out there was some sporadic, or some

scattered movement, but I mean in other words my attention was drawn to the monument and to that area, and I just stayed with that.

Q. Well, the last activity you remember toward the Ly-
[fol. 1493] ceum was the same type of scattered or sporadic activity?

A. Yes, sir.

The Court: We will stop right there for our recess.
We will recess until a quarter until 4:00.

(Short recess was had.)

[fol. 1493a] Q. Now, Mr. Ellis, do I understand that after General Walker got down from his talk on the monument, he walked a short distance toward the flagpole?

A. Yes, sir.

Q. What distance?

A. Is this without or with someone? Now, it would—I would say he, by himself, he walked near the eight or nine feet.

Q. That would be three steps?

A. I don't know—well, now—maybe I'm confused on the footage but—no, it was several steps.

Q. Would you say maybe eight or ten steps?

A. Yes, sir, that would be more like it.

Q. That would be somewhere between twenty-four and thirty feet?

A. All right, sir.

Q. Something approximating the width of this room perhaps?

A. No, sir, I don't believe he went that far before people caught up to him or before this line was formed.

Q. Well, now, did he stride off rapidly—

A. No, sir.

Q. Or did he stroll?

A. He left—when he got down from the monument, he
[fol. 1494] was, it was just a slow type walk. His walk seemed to pick up, the more steps he took.

Q. Did anyone shake hands with him when he first got down off the monument?

A. I don't recall.

Q. Would you say they did or didn't? What is your best recollection?

A. The way I was standing, the crowd sort of went by me to catch up with him.

Q. Now, incidentally, where were you standing?

A. I was in the fourth row. They had made row type of affairs and I was about in the fourth row from him.

Q. In what direction? North, south, east or west?

A. I believe you said the top is north and—

Q. Right.

A. It would be on the south side—not directly south, but over—

Q. Was he making his speech then facing to the south?

A. Facing down the avenue, yes, sir.

Q. Well, that would be to the east, wouldn't it?

A. Well, the University—University Avenue, the one from the bridge, would be coming from the—well—I am confused. In other words, may I see the map?

[fol. 1495] Q. Find your pointer and take a look.

A. Yes, sir, I am looking—I see, I am sorry. I thought it was like this, but—uh-huh.

Let's see, that would be north, south, east, west? Is that the way it is?

Mr. Cravens: Yes.

By Mr. Watts:

Q. North is to the top?

A. Uh-huh. South, east, west?

Mr. Gooch: North is the top.

A. Yes, sir.

By Mr. Watts:

Q. East is to your right.

A. All right. That's fine. That's right. It would be to the east.

Q. He was facing into the east?

A. Yes, sir, and so actually I was on the eastern side also.

Q. And you were in the fourth row facing him?

A. Yes.

Q. Now, where had the minister gotten on the statue? On which side of the statue with respect to where Walker was?

A. Oh, just right at the side of the statue which, I guess, would be on the, still on the eastern side or just right at the very side of the, sort of halfway on and halfway off, right at the corner.

[fol. 1496] Q. Was he on the same side that Walker was on?

A. My best recollection, Mr. Walker was right in the middle of it and the minister, when I noticed him, he was right at the edge of or at the base of the steps.

Q. Was he to Walker's left or right?

A. He was to his left.

Q. All right. Did you see the heavy set Sheriff take the minister down from the statue?

A. No, sir, that was when the people sort of surged forward and I did not see who, what actually happened then. It was—my view was covered for that split moment until I could move out and get a better vantage point.

Q. Was this surge forward that you are talking about a part of this charge you related?

A. You mean the surge for—or going towards the minister?

Q. Right.

A. No, sir.

Q. How long before Walker got down from the monument?

A. My best recollection, the minister was taken away from the immediate area of the monument and after the, you might say that particular area was cleared, that was when Mr. Walker got down.

[fol. 1497] Q. And when Mr. Walker got down, did he go to the north or the south of the monument? Do you know which way now the north of the monument is?

A. He went to the—be the north.

Q. That way is north, right?

A. Right, went to the north.

Q. Would you take your pointer and trace the direction that Mr. Walker went after he got down off the monument?

A. Yes, sir, he stepped down, turned to his north and went, oh, just right into this little area right here (indicating).

Mr. Nuss: Louder, please.

A. Stepped down, which would—and stepped to his north and then back around to his west, or walked west up towards the Lyceum Building.

Q. And do I understand, then, he walked on out ahead all by himself first?

A. Yes, he did.

Q. Without saying anything to anyone?

A. Following the speech, I did not hear him say anything.

Q. Well, you were close enough to where if he had said something—you were right in the fourth row?

A. Yes, sir.

[fol. 1498] Q. If he had have stopped and talked to someone in this area, you would have certainly heard it, wouldn't you?

A. I believe so, yes.

Q. And had somebody at this point said, if they had said, "General, lead us in a charge, will you lead us," you undoubtedly would have heard that, wouldn't you?

A. Well, there was a lot of hollering. I am not sure I would have heard it unless they hollered themselves, I don't know.

Q. Unless who hollered?

A. If anyone hollered.

Q. As I understood you to say, Walker walked off the statue and walked along here all by himself?

A. He did, yes, sir, when he first got down from the statue and walked some steps before he was caught up with.

Q. Perhaps some thirty feet?

A. Yes, sir.

Q. And during that period of time nobody got up close to him and asked him anything, did they?

A. The people, as soon as he—as soon as he got down from the statue and just made maybe three or four steps, they started in behind him.

Q. Uh-huh.

[fol. 1499] A. First one or two men and then the other people followed.

Q. And had he gotten this so-called approximately thirty feet by the time they started catching up with him?

A. They were in the process of catching up to him when he got to that area.

Q. Where was he by the time this 500 people lined up behind him?

Mr. Address: Beside him.

The Court: Let the witness testify, Mr. Address, please.

Mr. Address: I was correcting him.

The Court: Let Mr. Watts take care of it. One at a time.

Mr. Watts: Yes, sir. Did you understand the question?

The Witness: No, sir.

By Mr. Watts:

Q. I say, how far west had he gotten when this so-called 500 people lined up behind him?

A. There were, I would say, 250 or 300, maybe, maybe a little bit more, that listened.

Q. Uh-huh.

A. That when they determined who it was making the speech, they, the crowd, increased.

[fol. 1500] Q. Uh-huh.

A. Then I noticed that the further he walked, there were some people that had not, in this area over here, that had not been to the speech but came across this area and then joined the group that was going up.

Q. Did these people here walk or run?

A. Run.

Q. And what about the ones over here at the YMCA, did they walk or run?

A. I believe they were all trying to catch up with that group.

Q. And with General Walker?

A. Yes, sir.

Q. And as I understand, then, when Walker walked up the first thirty feet, he was relatively by himself?

A. Yes, sir.

Q. And then after he got about thirty feet, the crowd caught up with him?

A. Caught up with him.

Q. Did he wait for them to catch up, or did they just increase their gait and catch him?

A. It is my best recollection he kept walking and they caught up with him.

Q. Now, did you follow with the group?

A. No, sir.

[fol. 1501] Q. Weren't you interested in what Walker was going to do up to that point?

A. Yes, sir, I was interested, but I did not follow them. I stayed over; almost to the same place that I was. However, I moved out to the street and over to the sidewalk and moved up some way near the YMCA Building.

Q. And was that relatively deserted when you got back there after all these people had gone up there?

A. No, but there were still some people along the porch and right near the steps that were not entering into the—

Q. All right. What point were you when you estimated the numbers in this crowd?

A. The first number I estimated as I approached the monument, which was, like I say, I believe it was a couple hundred feet maybe. And then I looked around prior to the speech being made and I saw other people coming in, making the crowd larger.

And then the crowd went forward after the speech.

Q. Did the crowd dissipate any or any of the people listening to his speech scatter before they started toward the monument? I mean toward the Lyceum?

A. Not that I recall.

Q. So, to you, then, as you could see the crowd, rather [fol. 1502] than scattering and dissipating, actually increased?

A. Yes, sir.

Q. As he started walking westward?

A. Yes, sir.

Q. My point is, did I understand you to estimate, in answer to Mr. Gooch's question, that as Walker walked toward the flagpole, there were approximately a thousand people or—as you were, approximately five hundred people? Lined up behind him.

A. I think so—well, now, either 500 with him, near him, or beside of him.

Q. Well, certainly I would say within the confines of the Circle?

A. Yes, sir.

Q. And they were pretty well lined up pretty straight behind him?

A. When they caught up with him, they got either beside him in this long line or in back of him.

Q. Was it a single file, a single rank?

A. The front rank was, but, however, there were other people behind this front rank.

Q. How many deep would you say they were? Two, three?

A. Well, sir, that was—there was a lot of them but I didn't—I really would hate to estimate because I would [fol. 1503] hate to get it wrong.

Q. Now, let's estimate how wide a person would be. There is a foot, there is another five inches. Now, let's get an average person here. There is a foot and there is another ten inches (measuring Mr. Gooch).

So, somewhere in between there, an average citizen would probably be around, we would say, conservatively, eighteen inches, wouldn't they?

A. Yes, sir.

Q. Foot and a half. Take the stand, please.

A. Yes, sir.

Q. So, if there were two hundred people, that would be less than—that would be two-fifths of this crowd—on the front line, that would be 325 feet in width, wouldn't it, or do you know?

A. Well—

Q. Do you want to get your pencil and paper?

A. I wasn't the best in mathematics, so I—

Q. Did you study Liberal Arts?

A. Yes, sir. Very liberal.

Q. All right. Do you want to get your pencil and paper and figure out how wide a company front would be with 200 people in it at a foot and a half apiece.

Mr. Gooch: If the Court please, I submit that's a matter of argument.

[fol. 1504] Mr. Watts: It's not argument.

The Court: It's a matter of mathematics, so I am not going to require the witness to do it. It's a matter of mathematics.

Mr. Watts: That's why I was getting him a pencil.

The Witness: Thank you, sir, I—

By Mr. Watts:

Q. Well, let's break it down to something simple. If there were 200 people in the line and they were a foot and a

half wide, that would be 300 people wouldn't it—as you were, 300 feet.

A. All right.

Q. Now, then, I wish you would outline to use the rate of speed that this 500-man group took toward the Marshals?

A. At the beginning they were slow and the farther they got, they picked up speed.

Q. And did they ever get into a run?

A. Not while I was watching them.

Q. Where were you when you quit watching?

A. In approximately the area near the—near the Y Building but further down near the monument.

Q. Did it appear to you that Walker had command over this group?

A. Sir, I don't know whether he did or not.

[fol. 1505] Q. Did you hear him issue any orders?

A. I wasn't close enough to hear him speak while he was in the crowd. I did not follow him or stay with him where I could listen.

[fol. 1506] Q. Did you hear him confer with a group of about 15 persons who appeared to be riot leaders any time before he started to walk?

A. Before the walk or before the speech?

Q. First, before the walk, immediately before the walk.

A. Not that I recall.

Q. Did you see him confer with 15 people who appeared to be riot leaders before the speech?

A. Well, now, I don't know whether they were riot leaders. Like I said, he was talking to some people before the speech. I don't know whether they were riot leaders or not.

Q. As a newsman would there have been any way you could have told whether they were riot leaders or not?

A. No, sir. They looked like a group of students to me.

Q. Did you see anyone, a tall young man waving a big Confederate flag at that time?

A. I saw several flags. Very possible. I don't know whether it was in that area or not, but I saw several Confederate flags waving—waved that night.

Q. Well, now going back and reconstructing your memory on this, the very best you can, relive this instant when you first saw General Walker, you first saw him standing [fol. 1507] there by the monument, did you see any young man waving a big Confederate flag? Yes or no, or do you know?

A. I can't recall exactly.

Q. Now then, on the monument, back to the speech.

Did you hear General Walker beg the students to cease their violence, and he was met by one massive jeer?

A. I did not.

Q. Would you say that did not happen?

A. I don't know whether it happened or not. I did not personally hear this take place, but I don't know whether it happened or not.

Q. Could there—from where you were could there have been a massive jeer without you hearing it?

A. Well, no, sir, I don't believe that I ever heard any jeer during the speech, before or after.

Q. My question was could there have been a massive jeer during the speech without you hearing it from where you were in the fourth row?

A. I am sure I would have heard it.

Q. All right, and would you say there was not a massive jeer?

A. My best recollection, there was not.

Q. Did you hear General Walker tell the students that, "Violence is not the answer"?

A. I can't recall that, sir.

[fol. 1508] Q. Would you say he did not say that?

A. As I testified, some of these things I took down and some I did not. I did not hear all that was said.

Q. Well, now, in fairness, General Walker could have said, "If there is any blood shed let it be on the hands of the Federal Government. . . ."

A. Yes, sir, I recall that.

Q. "... violence is not the answer. Violence was not intended. Your real enemy is that way in Cuba"?

A. I recall some of that but I don't—I don't recall this part about the violence.

Q. Do you recall him saying something about Cuba?

A. Yes, sir.

Q. What did he say?

A. Well, this is in my notes.

Q. All right, give us verbatim what he said?

A. This is not verbatim, but this is as close to what I—
I have got, "There is a long route yet to Cuba."

Like I said a while ago, I believe I meant to say, "this,"
but I have, "to Cuba". —"there".

Like I said, I wrote in the dark and under a bad situation.

Q. But you wrote down there everything that you could
under the circumstances that impressed you as being significant?

[fol. 1509] A. Yes, sir.

Q. And did you hear Governor (sic) Walker say, "Governor Barnett has betrayed the people of Mississippi?"

The Court: He means General Walker.

Q. Excuse me, I am sorry. Did Governor (sic) Walker say, "Governor Barnett has betrayed the people of Mississippi?"

A. I don't recall that.

Q. Would you say he did or didn't say that?

A. I did not hear him say that, but I am not saying he didn't because I don't know.

Like I said, I tried to write down what I could, and I might have missed that while I was writing it down.

Q. Did he say, "Don't let up now you may lose this battle but you will have been heard"?

A. I don't recall that.

Q. Did he say, "This is a dangerous situation"?

A. I don't recall that.

Q. Did he say, "You must be prepared for possible death?" Now that would have been rather a significant and challenging statement.

A. Yes, sir, it would, but I don't recall that.

Q. Did he say, "If you are not, go home now"?

A. I don't recall it.

Q. Did you hear any cheers?

[fol. 1510] A. Yes.

Q. Was it apparent to you that Walker had complete command over the group?

A. I am not sure what your definition of "command" is.

Q. By your definition.

A. My definition of command, where someone could say—tell a group of several, or a lot of people to do something, and they would listen to him. Is that—are the—or they would do what he said.

Q. Well that is a pretty good definition. Did you think he had such command over that group that they would do what he said?

A. They were being very respectful to him. I don't—if I—if he had said something, tell them to go on or something, what they were doing, I believe they would have listened to him.

Q. But he didn't tell them to go on, did he?

A. Well, now—

Q. Did you hear him give any commands of any kind?

A. If I can refer to my notes?

Q. All right, refer to your notes, please, sir, and if you find any command there let me know.

A. I believe when he got to the point, "There is no stopping point, you can continue," I consider that a command. "You can continue."

[fol. 1511] Q. Uh-huh. All right, that is the nearest, by your conception, that he got to a command?

A. Well, I don't really consider that a command, but when he said, "You have a right to protest," I think it was more of a statement, but I believe when he said, "You can continue," I consider that a command.

Q. He didn't say anything like, "Follow me, let's charge," or anything like that?

A. I didn't hear that.

Q. Did he or did he not use the word, "charge", anywhere?

A. I don't—I don't recall the word charge. I don't know that he did not say it but—

Q. Do you know Mr. John Edmond King, the gentleman that testified just before you?

A. With the radio station?

Q. Radio station, yes, sir.

A. Yes, sir.

Q. You have discussed this matter with him, haven't you?

A. When you say, "Do I know him . . ." the only time that I met him was at Oxford. He and I both testified before the Grand Jury. I talked to him then and this is the first time I have seen him since that time.

Q. Well, you visited with him in Oxford, didn't you? [fol. 1512] A. Yes, sir, just a short period of time because I believe he came to town and testified and left. I don't believe we talked any long period of time.

And this morning is the first time I have seen him since I have been here.

Q. Where are you both staying?

A. I don't know where he is staying but I am staying at the Worth.

Q. Did you visit with him out in the hall? Didn't I see you visiting with him out in the hall?

A. Just spoke to him.

Q. Did you talk with him about the fact that your notes were almost verbatim with his, wherein it says, "There is no stopping place, continue"?

A. We did not go over each others' notes together, if that is what you are asking, no, sir.

I wasn't sure what he had in his notes, or he in mine.

Q. Then if the notes are similar it is certainly not any result of any coordination between you?

A. No, sir, it is certainly not.

Q. What is your newspaper?

A. I am not with a newspaper now.

Q. What was it?

A. The Nashville Banner.

[fol. 1513] Q. Did you have access to a copy of that Nashville Banner?

A. Sir.

Q. Do you have a copy or access to a copy of the Nashville Banner about the time the riot took place?

A. I believe I could.

Q. Would you produce it, sir?

A. I don't have it with me. I have a copy at—

Mr. Watts: Do you have a copy of it, Mr. Gooch?

Mr. Gooch: Yes, sir. It is not the AP story, if that is what you want (producing newspaper).

Mr. Watts: Might I have just a minute to have a look at this, please, sir.

(Sotto voce discussion of attorneys not audible to court reporter.)

Mr. Watts: If Your Honor please, I would like to mark as an exhibit on that this part marked in red. That is what I am offering in evidence.

The Court: All right, you will have to mark it.

Mr. Watts: I will have the reporter circle it. Mr. Reporter, will you please encircle this area right here, and mark that as an exhibit. Better circle it with the pen.

(Thereupon, Plaintiff's Exhibit No. 22, was marked for identification.)

[fol. 1514] Mr. Gooch: Are you going to introduce the date-line?

Mr. Watts: Yes, or why don't we just stipulate to it.

Mr. Gooch: Well, I think the stipulation is that is October 1st.

Mr. Watts: October 1, 1962.

Mr. Gooch: It is an article without any credit to any news release.

Mr. Watts: We have stipulated, as I understand, that without the Nashville Banner giving any specific credit to AP, it has this language, which it is agreed, from the AP report?

Mr. Gooch: No, I said it just had some of the same language that was in the report.

Mr. Watts: This same language.

Mr. Gooch: It does not—the article itself does not give credit to AP, and I told you it had some of the same language that was in some of the AP stories.

Mr. Watts: And I will now offer in evidence this same material that is in some of the AP stories.

The Court: That will be out of Plaintiff's Exhibit 22.

Mr. Watts: Out of Plaintiff's Exhibit 22. Has a red circle.

[fol. 1515]

EXCERPT OF PLAINTIFF'S EXHIBIT NO. 22 READ INTO RECORD

"Dispatches from Oxford, Mississippi, said Walker sought to lead a charge by rioters, and quotes him to saying to students, 'If you can't win go on, don't stay at the University, but let's not quit, we can win.'"

Now as I understand, you did not hear that precise language that you have any recollection of, did you?

A. No, I did not.

Mr. Watts: That is all.

Mr. Gooch: We tender in evidence the notes taken and testified to by the witness.

Mr. Address: I think that we can offer them as part of the cross examination, but we don't believe they can offer them on direct. We object to it.

Mr. Gooch: All right.

The Court: Are you through with this witness?

Mr. Gooch: I have no more questions.

The Court: You may be excused.

* * *

Mr. Gooch: We offer at this time the deposition taken in the Atlanta case by—well, I don't know who took it. I think Mr. Smith.

Mr. Watts: A reporter. And we don't care. It is a legitimate deposition.

Mr. Gooch: And the deposition is of William W. Brittingham.

Mr. Watts: Is the Reverend Duncan Gray's deposition in that same deposition, Mr. Gooch?

Mr. Gooch: No, sir. Brittingham, Buckley and Tatum, in this volume.

Mr. Address: Where was this taken?

Mr. Gooch: I don't know. I wasn't there.

Mr. Watts: At Oxford.

Mr. Gooch: It shows appearance of Watts, Smith, Gambrell, and Thomas.

Mr. Watts: I have found it.

Mr. Gooch: Taken by Mr. Gambrell, I believe, in the Atlanta Case.

Mr. Watts: Yes, sir, and myself.

Mr. Gooch: All right. Beginning at Page 3.

* * *

Q. Would you please state your name?

A. William W. Brittingham.

Q. What is your age?

A. I am 21.

Q. And where are you from?

A. Lewes, Delaware.

Q. Are you in school at this time?

A. Yes, sir.

Q. Where?

[fol. 1517] A. At the University of Mississippi.

Q. How long have you been in the University of Mississippi?

A. This is my second year.

Q. Are you a sophomore?

A. No, sir, I am a Junior. I transferred from Jr. College.

* * *

Mr. Gooch: That is through line—about 4, on Page 4. Skipping the preliminaries, the 5th question on Page 4.

* * *

Q. You are familiar with that section of the campus known as the circle?

A. Yes, sir.

Q. With the Confederate monument at the east end and the Lyceum Building at the west end?

A. Yes, sir.

Q. Mr. Brittingham, on the afternoon or evening of September 30, 1962, were you on the University of Mississippi campus?

A. Yes, sir.

Q. What time did you arrive on the University campus?

A. I arrived at approximately suppertime.

Q. Where had you been?

[fol. 1518] A. I had been to Jackson to the football game.

Q. When you arrived back on the campus at approximately suppertime where did you go first?

A. First I went to my room then I unpacked, changed clothes and a group of us went to the Lyceum.

Q. When you got to the Lyceum just describe what you saw and what was going on there.

A. When I arrived at the Lyceum the Marshals had surrounded the Lyceum Building and army trucks were parked in front of the Lyceum Building and there was quite a crowd down in that area there and there was a lot of name calling and cheers and yells of different types and remarks being made and Mississippi State Highway Patrol was holding the crowd back from the Marshals, not a great distance, but just about the width of the street there in front of the Lyceum, and cigarette butts were starting to be flipped on top of the trucks to try to set the canvas top that was on the trucks afire, and there was a bunch of students that were trying to get up close to let the air out of the tires and tried to do as much damage to the army trucks as they could. Then missiles or objects were being thrown by them at that time, and it was getting dark and these objects were starting to be thrown in much larger numbers.

Q. Who were they thrown at?

A. They were throwing at the Marshals and I'll tell you [fol. 1519] those Marshals took quite a beating, really, and then the crowd seemed to be getting a little more wild and a little more aroused as objects were being thrown in increasing numbers and the temper of the crowd was getting more violent. They were particularly aroused at the Marshals and the temper of that crowd reached its climax, when the Marshals fired the first tear gas into the crowd and the crowd receded to the east end of the circle down by the statue, and in the surrounding area.

[fol. 1520] Q. After that happened, just briefly tell us what occurred, then, up until the time you saw General Walker?

A. There were small groups, maybe just a handful of people who would sporadically surge up towards the Marshals and throw objects, bricks and rocks, stones and things like that, there was not a formal group, not organized, but they would just run up, a certain group, and throw and then run back.

That kept on for quite a little time. Along about then I just lost track of time there, but it went on, just kept up and the next thing was when General Walker stepped on the monument.

Q. Had you heard anything to the effect that he was on the campus before he stepped up on that marker, on the monument?

A. Yes, sir, I heard students say, "General Walker is here." They wanted to hear him then and they started crowding around the monument.

Q. How close did you get to the General when he was on the monument?

A. Well, you mean in feet?

Q. Yes.

A. Well, I would say in forty feet. I was in the area of the fountain east of the monument and on the left side of University Avenue. Do you have a map?

[fol. 1521] Q. Yes, here is a map.

A. Thank you, now I was in the area here of which we could call "Circle 2", now the monument is up here at the east end of it.

Q. At the east end of the Circle?

A. Yes, sir.

Q. Approximately where would the fountain be?

A. In this area right here.

Q. Now, you have pointed out by a dot down the street known as University Avenue heading toward the bridge and across that street where the mob was gathered?

A. Yes, sir.

Q. Would you estimate how far that was, approximately, in feet? Would you say it was forty feet?

A. Yes, sir.

Q. Now, somewhere in that neighborhood, is that right?

A. Yes, sir.

Q. Could you hear the General when he was making his speech where you could understand him?

A. No, sir, I didn't hear it clearly due to the fact that there was approximately three or four hundred students in that immediate area. I couldn't say how many or how long they had been there. But they were in that area and in the surrounding area. There was a lots of times that [fol. 1522] people were talking and yelling and laughing and some of them were cussing and coming down into the area on the monument and they were still riled up about the whole situation and because of the noise and confusion, all of General Walker's speech was not clear to me.

Q. You didn't hear and understand everything that was said?

A. No, sir.

Q. Do you recall anything that you heard him say?

A. Yes.

Q. What was it?

A. He made the statement that they had a constitutional right to a protest, that was when I came in from the crowd

and I stood and listened and that is when he said the protest of these students would be heard all over the world or that what they said here tonight would be heard all over the world, now that last is not verbatim. At one time I heard him say something about Cuba, which wasn't clear to me, I just heard him use the word "Cuba".

Q. You didn't understand what else he said about Cuba, if anything?

A. No, it wasn't clear at all and I don't know what it was all about. I heard the term used but at the time I didn't know what he was talking about. When that was going on, I was not close enough to hear what was being said. I did [fol. 1523] not see or hear anything about that and I didn't think anything about that at the time.

Q. All you know about that is hearsay?

A. Yes, sir, just what I heard.

Q. Was anything else that you started to say?

A. No, except that was quite a while ago and I am trying to think of exactly what happened and what I saw and heard.

Q. Now, was there anything else that you heard or observed there right at that time?

A. Yes, before General Walker had been seen by the crowd and had stepped up on the monument, a photographer was getting up the side he was on, that is, just a few minutes later, and then a reporter, but I think he was a private reporter, possibly might have been working with the photographer, and they had come off of field work and the crowd just tore up his equipment there where they had thrown a road-block down below the new Science Building to keep people from coming in.

Q. Did you see any missiles or weapons of any kind in the hands of the people there that night?

A. Yes, sir. Such as rocks and bricks?

Q. Yes. Yes, and bottles, pipes or anything they could use for a weapon?

A. Students had rocks, broken bottles and anything they [fol. 1524] could pick up and they really were worked up and they got anything that they could throw and would charge down towards the Marshals and throw them at them.

Q. What about bricks?

A. Oh, yes, bricks and rocks, lots of them.

Q. Do you know where the bricks came from?

A. Yes, sir, most of them came from the new Science Building they were building there.

Q. Where was the Science Building relative to the monument, how far?

A. It was, I don't know the feet that it was, but I do know where it was and I would say it would be around ninety or maybe 100 feet. It might be more or it might be less.

Q. How did they get those bricks from the building up into the Circle for use?

A. Well, I saw one student who had a wheelbarrow and I saw another that had acquired burlap bags from some place and would load these up and pick them up and heave them to students and go back and load them up again.

Q. What were they doing with these bricks and rocks and bottles?

A. They were making an assault on these Federal Marshals surrounding the Lyceum.

Q. How were they assaulting them by throwing these [fol. 1525] missiles at them?

A. Yes, sir, they would throw anything they could get at them.

Q. Now, the time that General Walker was making his speech, state whether or not people were around there with those things in their hands?

Mr. Watts: Objected to as leading.

The Court: Overruled.

Q. Did you observe anything in the hands of any of these people at the time General Walker was making his speech?

A. Yes, sir, some people had objects in their hands, but I would say the majority did not.

Q. What objects was it that they would have?

A. Bricks and rocks.

Q. Tell us just what happened immediately after General Walker got through with his speech.

A. Well, he came down off of the statue and headed toward the Lyceum and on out, not on the sidewalk but on the grass, and the students then began to have a more sense of direction or feeling of security or to think as a unit of one and—

Mr. Watts: If Your Honor please, I believe I must object to this. This lad is trying to tell what all these students were thinking.

[fol. 1526] The Court: Sustained.

Mr. Watts: That's the type of—

The Court: That part of the answer in which he attempts to interpret the feeling of the crowd. I will permit the balance of the answer.

Mr. Watts: And they started, I think it starts again.

A. —and they started off toward the Lyceum and the crowd generally picked up. I did not see General Walker when he reached the flagpole, I didn't see him any more.

Q. Where was he the last time you saw him?

A. He was headed toward the Lyceum in the front of the crowd with the students.

[fol. 1527] A. Yes, sir, he was right up front with them.

Q. How far had he gone from the monument, I believe you said that was the last you saw of him, now where was that relative to the flagpole?

A. I would say he was about even with the flagpole but if he went to the back of the flagpole, I could not have seen him.

Q. But you saw him about the time he reached the flagpole but you didn't see him afterwards?

A. Yes, sir, that is correct, I didn't.

Mr. Gooch: There was an objection there to leading.

Q. State whether or not you saw him relative to the flagpole?

Mr. Gooch: Then some more objections.

A. He was approaching the flagpole directly but in the same direction he had been going when he left the statue.

Q. Where was he relative to the front of the crowd when you saw him last?

A. He was in or with the front of the crowd.

Q. Do you know whether anyone had ahold of his arms?

A. No, sir, I do not.

Q. You couldn't tell that?

A. No, sir.

Q. What were you doing?

A. What was I doing?

[fol. 1528] Q. Yes.

A. The same thing every other student was doing.

Q. Did you have rocks or bricks in your hand?

A. Yes, sir.

Q. Had you had them in your hand previously that night?

A. You mean before?

Q. Yes.

A. Yes.

Q. What did you do with them?

A. I threw them at the Marshals.

Mr. Watts: Cross examination. Go ahead and read the answers, if you will.

By Mr. Watts:

Q. What is the length of the regular football field?

A. About 100 yards.

Q. Could you throw a football 100 yards?

A. It could be done.

Q. All right. By the same scale, how far could you throw a rock?

A. Well, now first that depends on the size of the rock.

Q. Well the size that the kids were throwing that night at the Marshals?

A. Well, first I think I could state the distance that you [fol. 1529] could throw a rock as compared with a soft ball. I could throw a soft ball, I'd say 50 yards or more, and I think you could throw a rock that far.

Q. That is about half the distance of a football field?

A. Yes, sir.

Q. Do you participate in athletics at the University of Mississippi?

A. No, but I played ball in high school.

Q. Football?

A. Basketball and baseball.

Q. Did you see General Walker with any rocks in his hands?

A. No, sir, I did not.

Q. Now as I understand, when he was speaking, you were in the area of the fountain there in the circle which is somewhere in the neighborhood of 50 feet south of the monument?

A. Yes, sir, I never measured the distance but that sounds about right.

Q. Well, from that point, were there people between you and them?

A. Yes, sir.

Q. Was there a substantial crowd?

A. Yes, sir.

[fol. 1530] Q. Could you estimate the size of that crowd?

A. Oh, I would say around 300 or 400.

Q. That is the area immediately around the monument?

A. Yes, sir.

Q. Well do you know how many was in the area surrounding, the surrounding area, in other words?

A. No, sir.

Q. When General Walker left the statue, did he proceed north or south of the statue or did he proceed west?

A. Well, he stepped down off of the monument and at the time that he stepped down, why, he passed on the left side, which would be the south side. Now I could be mistaken but he passed on this side, I can't be sure about that.

Q. You mean on the north side?

A. Yes, sir, I believe so but I could be mistaken. There was so much confusion going on.

Q. Were there quite a few students or people of some kind close to him and around him?

A. Oh, yes.

Q. When he joined the mob or crowd, as you said, after he got down off of the monument, did you see him again?

A. Yes, sir, when he reached the other side, he was headed towards the Lyceum Building.

Q. In what direction was he headed then?

A. He was headed towards the Lyceum Building almost [fol. 1531] in the direction of this stretch of road right here.

Q. According to this map, that would be slightly to the northwest, would it not?

A. Yes, sir. It was not a direct line between the monument and the Lyceum Building but he was headed in that direction.

Q. Now what was the form of that crowd as it moved forward? Were they drawn up in a formation with a straight line across the front or was it just ragged and sporadic movements?

A. They were not lined up, they didn't form any line or anything like that. They were just grouped up, quite a number would be in each group. They were headed towards the Lyceum Building and all the time they were going, there was more people coming down University Avenue and getting into the crowd, the general movement was toward the Lyceum.

Q. How close were you to the front of the crowd?

A. Oh, approximately the same distance I was when it began.

Q. You mean when what began?

A. Well, when General Walker was on the monument, I was about as close to the front of the crowd as I was to him there on the monument.

Q. That was 40 or 50 feet?

A. Yes, sir.

[fol. 1532] Q. You were about that far from him?

A. Yes, sir, maybe a little more after he left the monument because there were a lot of people and I wasn't in any rush to get in there and mix up with that crowd of people. There were a lot of people passed me, they started off walking but they picked up speed.

Q. Did you go up to the flagpole?

A. No, sir, I didn't, it was just one or two feet, about then was when the Marshals started firing tear gas.

Q. Where was he with respect to the flagpole when you lost sight of him?

A. Headed in the direction of the Lyceum.

Q. But was he east or west of the flagpole?

A. I don't know whether he passed this sidewalk or not. I lost track of him in the crowd.

There was just a lot of people moving forward and were constantly adding to it and I just lost sight of him. In that crowd it was hard not to lose sight of somebody.

Q. Well, about how far north of the east-west sidewalk was he?

A. Oh, that would be hard to say there again because there were so many people moving back and forth, you couldn't say.

Q. Compared to the distance you were from him, was he as far north as you were behind him?

[fol. 1533] A. Yes, he could have been.

Q. You never did see him close to the north-south sidewalk that runs past the flagpole, did you?

A. No, sir, but the crowd there was pretty compact, it was a big crowd and they crossed the sidewalk but I didn't see General Walker cross it, no, sir.

Mr. Gooch: Are you offering the next?

Mr. Watts: I think the rest we will skip.

Mr. Gooch: I will offer it if you don't.

Mr. Watts: It's self-serving, if Your Honor please. Let's check it with the Court. It's entirely irrelevant and it's discovery matter.

The Court: Let's see now, what line are we talking about?

(Sotto voce conference at the bench.)

Mr. Gooch: The Court is omitting from the bottom question on Page 18.

Mr. Watts: I think that's the rest of the deposition. The last question and answer doesn't quite deal with that but I don't care about it unless you want it in.

Well, let's ask that last question on Page 20.

• • •

Q. Did you go to high school in Delaware?

A. Yes, sir.

[fol. 1534] Mr. Watts: That's all.

Mr. Gooch: Judge, I am out of witnesses. Could we adjourn a little early this afternoon?

The Court: All right. Ladies and Gentlemen, we have finished a little sooner with the available witnesses than we had anticipated so we will go ahead and recess this afternoon and start at 9:00 o'clock tomorrow morning.

(Thereupon, at 4:25 p.m., an adjournment was taken until the following morning, Wednesday, June 17, 1964, at 9:00 o'clock, a.m.)